

ENROLLED HOUSE
BILL NO. 1691

By: Dunegan and Roan of the
House

and

Crutchfield of the Senate

An Act relating to public health and safety; amending Sections 3 and 4, Chapter 115, O.S.L. 2000 (63 O.S. Supp. 2000, Sections 2843 and 2844), which relate to the Nine-One-One Wireless Emergency Number Act; adding a definition; modifying a definition; authorizing the board of county commissioners to submit question of an emergency wireless telephone fee to voters; allowing amount of fee to be set; directing imposition of fee upon approval by the voters; providing for retention of certain portion of certain fee; requiring payment of certain fee; stating purposes for which certain monies may be used; requiring substate planning districts to distribute certain share of monies received on certain basis by certain time; requiring districts to make certain distribution of monies received on certain basis; requiring undistributed amounts be carried forward; providing billed service users be liable for fees imposed; requiring certain service providers bill the fees as a separate billing item; absolving certain service providers of obligation to take certain legal action; requiring certain reimbursement on receipt of certain invoice; providing for remittance of fees monthly by certain time; requiring certain service provider keep certain records for certain period; permitting certain audits of service provider by State Auditor and Inspector annually; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 115, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2843), is amended to read as follows:

Section 2843. As used in the Nine-One-One Wireless Emergency Number Act, unless the context otherwise requires:

1. "Area served" means the geographic area which shall be served by the emergency telephone service provided by the governing

body of a county, municipality, part of a county or combination of such governing bodies;

2. "Governing body" means the board of county commissioners of a county, the city council or other governing body of a municipality, or a combination of such boards, councils or other municipal governing bodies, which shall have an administering board as provided in subsection G of Section 2815 of Title 63 of the Oklahoma Statutes. Any such combined administering board shall be formed and shall enter into an agreement with the governing body of each entity in accordance with the Interlocal Cooperation Act. The agreement shall be filed with the office of the county clerk and in the offices of each governmental entity involved;

3. "Nine-one-one wireless emergency telephone service" means any telephone system whereby wireless telephone subscribers may utilize a three-digit number, nine-one-one (911), for reporting an emergency to the appropriate public agency providing law enforcement, fire, medical, or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergency to the appropriate emergency service and personnel;

4. "Nine-one-one emergency wireless telephone fee" means a fee to finance the installation and operation of emergency wireless telephone service and related equipment;

5. "Local exchange telephone company" means any company providing exchange telephone service to any service user in this state;

~~5.~~ 6. "Person" means any service user, including any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, the United States of America, the state, any political subdivision of the state or any federal or state agency, department, commission, board, or bureau;

~~6.~~ 7. "Proprietary information" shall include subscriber ~~and~~, market share, cost and review information;

~~7.~~ 8. "Public agency" means any city, town, county, municipal corporation, public district, public trust or public authority located within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services;

~~8.~~ 9. "Substate planning district" means the following organizations:

- a. Association of Central Oklahoma Governments (ACOG),
- b. Association of South Central Oklahoma Governments (ASCOG),
- c. Central Oklahoma Economic Development District (COEDD),

- d. Eastern Oklahoma Economic Development District (EOEDD),
- e. Grand Gateway Economic Development Association (GGEDA),
- f. Indian Nations Council of Governments (INCOG),
- g. Kiamichi Economic Development District (KEDDO),
- h. Northern Oklahoma Development Association (NODA),
- i. Oklahoma Economic Development Association (OEDA),
- j. Southern Oklahoma Development Association (SODA), and
- k. South Western Oklahoma Development Authority (SWODA);

~~9.~~ 10. "Wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

- a. a service whose users do not have access to nine-one-one service,
- b. a communication channel used only for data transmission, or
- c. a wireless roaming service or other nonlocal radio access line service; and

~~10.~~ 11. "Wireless telecommunications connection" means any wireless communication mobile station assigned a number containing an area code assigned to Oklahoma by the North American Numbering Plan Administrator.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2843.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. To provide for processing nine-one-one emergency wireless calls, including when possible automatic number identification and automatic location identification of wireless nine-one-one calls and selective routing of such calls, the board of county commissioners of a county may by resolution submit to the voters of the county the question of the imposition of a nine-one-one emergency wireless telephone fee for each wireless connection in the county as determined by the zip code of the subscriber. The resolution shall propose the amount of the fee which may not be more than fifty cents (\$0.50) per month for each wireless connection, and shall call for an election to be held within one (1) year from the date the resolution is adopted. If a majority of the votes cast in an election held approve the imposition of an emergency telephone fee,

the fee shall be imposed. A political subdivision may not impose another fee on a wireless service provider or subscriber for nine-one-one emergency service. The proceeds of the fee shall be utilized to pay for the operation of emergency wireless telephone service as specified in this section.

B. A wireless service provider shall collect the emergency wireless telephone fee in an amount equal to the amount approved as provided for in subsection A of this section for each wireless telecommunications connection from each of its subscribers of wireless telephone service within the boundaries of the county as determined by the zip code of the subscriber and shall pay the money collected to the substate planning district that represents that county not later than thirty (30) days after the last day of the month during which the fees were collected. The wireless service provider may retain an administrative fee of three percent (3%) of the amount collected.

C. Money collected under subsection B of this section shall be used only for services related to nine-one-one emergency wireless telephone services, including automatic number identification and automatic location information services. The substate planning districts shall distribute the money collected for each county which has approved the emergency wireless telephone fee to each public agency within that county which has established emergency wireless telephone service or has sent a written request for installation, maintenance, and operation of an emergency wireless telephone service to a wireless service provider. The money shall be distributed to each eligible public agency as a proportionate share based on the number of subscribers of wireless telephone service within the boundaries of the public agency as determined by the zip code of the subscriber. From the emergency wireless telephone fee, the substate planning districts shall also pay other public agencies in the county their proportionate costs attributable to emergency wireless telephone services as determined by local agreement. Remittance of the fee to a public agency may begin at any time if an existing emergency telephone service is already operative or upon written request by the local governing body to the provider for installation, maintenance, and operation of a nine-one-one emergency wireless telephone service and related equipment. Amounts not used within a given year shall be carried forward.

D. Every billed service user shall be liable for any emergency wireless telephone fee imposed pursuant to this section until it has been paid to the wireless service provider.

E. The duty to collect any emergency wireless telephone fee imposed pursuant to the authority of the Nine-One-One Wireless Emergency Number Act from a service user shall commence within sixty (60) days following approval of the fee by the voters in a county. Fees imposed pursuant to this section that are required to be collected by the wireless service provider shall be added to and shall be stated separately in the billings to the service user.

F. The wireless service provider shall have no obligation to take any legal action to enforce the collection of any emergency wireless telephone fee imposed pursuant to the authority of this section; however, should any service user tender a payment insufficient to satisfy all charges, tariffs, fees, and taxes for wireless telephone service, the amount tendered shall be credited to

the emergency wireless telephone fee in the same manner as other taxes and fees.

G. Any emergency wireless telephone fee imposed pursuant to the authority provided by this section shall be collected insofar as practicable at the same time as, and along with, the charges for wireless telephone service in accordance with the regular billing practice of the wireless telephone service.

H. On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, software, and associated implementation costs, the public agency shall reimburse the wireless service provider in accordance with the local agreement for all agreed to expenses related to wireless nine-one-one service. Reimbursement shall be made on a competitively neutral basis.

SECTION 3. AMENDATORY Section 4, Chapter 115, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2844), is amended to read as follows:

Section 2844. A. Any nine-one-one emergency wireless telephone fee imposed pursuant to Section 2 of this act and the amounts required to be collected are due monthly. The amount of fee collected in one (1) month by the wireless service provider shall be remitted to the appropriate substate planning district no later than thirty (30) days after the close of the month in which such fees were collected. All fees collected by the wireless service provider and remitted to a substate planning district and any other money collected to fund the emergency wireless telephone system shall be deposited in a special nine-one-one account established by the district. Each district shall account for all disbursements from the account established for the operation of the emergency wireless telephone system.

B. The wireless service provider shall maintain records of the amount of any nine-one-one emergency wireless telephone fee collected in accordance with the provisions of the Nine-One-One Wireless Emergency Number Act. The records shall be maintained for a period of three (3) years from the time the fee is collected. The State Auditor and Inspector may require an annual audit of the books and records of the wireless service provider concerning the collection and remittance of the fee authorized by the Nine-One-One Wireless Emergency Number Act.

C. A public agency shall be required to have conducted separately or as a part of the annual audit required by law of the municipality or county an annual audit of any accounts established or used by the governing body for the operation of an emergency wireless telephone system. The audit may be conducted by the State Auditor and Inspector at the discretion of the public agency. All audits shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States. A copy of the audit shall be filed with the State Auditor and Inspector and action taken in accordance with Section 212A of Title 74 of the Oklahoma Statutes. The cost of the audit of the emergency wireless telephone system accounts may be paid from and be considered a part of the operating expenses of the emergency wireless telephone system. Proprietary information of the wireless service providers shall be confidential.

Audit information pertaining to revenues collected or disbursed may be released only in aggregate form so that no provider-specific information may be extrapolated.

~~B.~~ D. The governing body of the public agency shall meet at least quarterly to oversee the operations of the emergency wireless telephone system, review expenditures, set and approve an operating budget, and take such other action as necessary for the operation and management of the system. The records and meetings of the governing body shall be subject to the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

SECTION 4. This act shall become effective July 1, 2001.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 8th day of March, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the 3rd day of April, 2001.

Presiding Officer of the Senate