

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2877

By: Case

COMMITTEE SUBSTITUTE

An Act relating to emergency telephone service; creating the Nine-One-One Voice over Internet Protocol (VoIP) Emergency Service Act; providing definitions; authorizing a governing body to provide for 9-1-1 emergency services for calls from Voice over Internet Protocol (VoIP) providers; authorizing the governing body to impose a 9-1-1 VoIP emergency service fee; specifying amount of fee; providing process for filing petition to impose fee; providing for submission of question to the voters; prohibiting imposition of fee if question fails; authorizing imposition of fee if question is approved; limiting application of fee to certain areas; establishing duty to collect the fee; requiring fees to be utilized for certain services; making certain users liable for fee until paid; requiring the fee to be added and state separately on billings; limiting obligation of certain providers to collect fee; requiring the service provider to submit a list of uncollected fees; limiting duty to disclose personal information; requiring fee to be collected with regular billing; providing for amount to be collected; allowing a provider to retain an administrative fee; providing for deposit of fees; requiring governing body to conduct an annual audit of accounts; providing standards for audit; requiring audit to be filed with the State Auditor and Inspector; making audit costs part of operating expenses; limiting liability of certain users and providers to pay or collect certain emergency service fees in certain circumstances; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2851 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Nine-One-One Voice over Internet Protocol (VoIP) Emergency Service Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2852 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in the Nine-One-One Voice over Internet Protocol (VoIP) Emergency Service 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. "Emergency service fee" means a fee to finance the operation of emergency calling service;

3. "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;

4. "Interconnected VoIP service" shall have the same meaning as set forth in 47 C.F.R., Section 9.3, or any successor regulation adopted by the Federal Communications Commission, and which defines the term as a service that:

- a. enables real-time, two-way voice communications,
- b. requires a broadband connection from the user's location,
- c. requires Internet Protocol-compatible customer premises equipment (CPE), and
- d. permits users generally to receive calls that originate on the public switched telephone network (PSTN) and to terminate calls to the PSTN;

5. "Interconnected VoIP service provider" means the company that provides interconnected VoIP service;

6. "Internet Protocol (IP)" means the network layer protocol in the transmission Control Protocol/Internet Protocol (TCP/IP) communications protocol suite;

7. "Primary service address" means the street address representative of where the use of interconnected VoIP service by the customer primarily occurs;

8. "Public Safety Answering Point (PSAP)" means a location where 9-1-1 calls are routed for emergency response;

9. "Public switched telephone network (PSTN)" means the worldwide collection of interconnected, circuit-switched, voice-oriented public telephone networks, both commercial and government-owned;

10 "Statewide default answering point" means an emergency answering point designated to receive 9-1-1 calls for either the entire state or those portions of the state not otherwise served by a local PSAP;

11. "Voice over Internet Protocol (VoIP)" means any Internet Protocol (IP) enabled services offering real-time, multidirectional voice functionality, including, but not limited to, services that mimic traditional telephony, or any other definition of VoIP that may be subsequently adopted by the Federal Communications Commission; and

12. "VoIP service user" means the endpoint Internet Protocol (IP) device that is used to originate an emergency call.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2853 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers for the protection of the public health, a governing body may provide for the operation of enhanced 9-1-1 emergency services which includes the provision of 9-1-1 calls received from interconnected Voice over Internet Protocol (VoIP) service users, and may impose an emergency service fee, as provided in this section, for Enhanced 9-1-1 emergency services in areas, subject to the jurisdiction of the governing body. The governing body may do such other acts as are necessary for the protection and

preservation of the public health as necessary for the operation of the Enhanced 9-1-1 emergency system.

B. The governing body is hereby authorized, by ordinance in the case of municipalities and by resolution in the case of counties or a combined governing body, to provide for the operation of Enhanced 9-1-1 emergency service which includes the provision of Enhanced 9-1-1 calls received from interconnected VoIP service users, and to impose a 9-1-1 emergency service fee in the area to be served by the system. The ordinance or resolution shall provide for the imposition of the Enhanced 9-1-1 emergency service and the amount of the 9-1-1 VoIP emergency service fee. The ordinance or resolution shall provide and include the amount of the 9-1-1 VoIP emergency service fee to begin the first year and for each year thereafter, in the amount of fifty cents (\$0.50) per month for each VoIP service user.

C. Within sixty (60) days of the publication of the resolution adopted pursuant to subsection B of this section, there may be filed with the county election board of the affected county or counties a petition signed by not less than five percent (5%) of the total number of votes cast in the most recent general election of the county or affected area. Within sixty (60) days of publication of an ordinance adopted by a municipality pursuant to subsection B of this section, there may be filed with the county election board of the county in which the municipality is located a petition signed by not less than five percent (5%) of the total number of votes cast in the most recent general election of the city. The petitions may request that the question of the imposition of the fifty cents (\$0.50) per month for each 9-1-1 VoIP emergency service fee as called for in the resolution or ordinance as a proposition be submitted to the qualified voters of the county, municipality or area to be served. Upon determination of the sufficiency of the petition and certification by the county election board or boards,

the proposition shall be submitted to the qualified voters of the county, municipality or area to be served not less than ninety (90) days following the certification of the petition. If a majority of the votes cast in an election held pursuant to this subsection disapprove the imposition of the 9-1-1 VoIP emergency service fee, upon certification of the election results by the county election board or boards, the resolution or ordinance shall not take effect and the 9-1-1 VoIP emergency service fee called for in the resolution or ordinance shall not be imposed. If a majority of the votes cast at an election held pursuant to this subsection approve the imposition of the 9-1-1 VoIP emergency service fee the governing body shall impose the approved fee and provide for the governance of the system. If the affected area is governed by two or more governmental entities, the governing bodies of each shall enter into an agreement in accordance with the Interlocal Cooperative Act to provide for the governance of the system.

D. Any fee imposed by a county or combined governing body shall not apply to any portion of the county located within the boundaries of a municipality or other governmental entity also imposing a 9-1-1 VoIP emergency service fee pursuant to the provisions of the Nine-One-One Voice over Internet Protocol Emergency Service Act. The duty to collect the 9-1-1 VoIP emergency service fee imposed pursuant to the authority of this section from a VoIP service user shall commence within sixty-one (61) days following the date that an interconnected VoIP service provider receives notice from a governing body that the voters in a county or municipality have adopted the fee, the amount of the fee and the address to which the fee should be remitted. Fees imposed pursuant to this section that are required to be collected by the interconnected VoIP service provider shall be added to and may be stated separately in the billings to the VoIP service user.

E. If a majority of the votes cast at an election held pursuant to subsection C of this section approve the imposition of the 9-1-1 VoIP emergency service fee, the governing body shall impose the approved fee.

F. The proceeds of the fee shall be utilized to pay for the operation of 9-1-1 VoIP emergency service as specified in this section. Collection of the fee may begin at any time if an existing service is already operative or at any time subsequent to execution of a contract with the provider of the Enhanced 9-1-1 emergency service at the discretion of the governing body.

G. Every billed VoIP service user shall be liable for any fee imposed pursuant to this section until it has been paid to the interconnected VoIP service provider.

H. The duty to collect any fee imposed pursuant to the authority of this act from a VoIP service user shall commence at a time specified by the governing body. Fees imposed pursuant to this section that are required to be collected by the interconnected VoIP service provider shall be added to and may be stated separately in the billings to the VoIP service user.

I. The interconnected VoIP service provider shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this section. If a VoIP service user tenders payment insufficient to satisfy all charges, end users, fees and taxes for interconnected VoIP service, the amount tendered shall be credited to the emergency service fee in the same manner as other taxes and fees. The interconnected VoIP service provider shall annually provide the governing body with a list of amounts uncollected along with the names and addresses of those VoIP service users which carry a balance that can be determined by the interconnected VoIP service provider to be nonpayment of any fee imposed pursuant to this section. Nothing contained in this section shall be construed to create a duty on the

part of the interconnected VoIP service provider to disclose personal information of the VoIP service user which would conflict with any other provision of law.

J. Any fee imposed pursuant to this section shall be collected insofar as practicable at the same time as, and along with, the charges for interconnected VoIP service in accordance with the regular billing practice of the interconnected VoIP service provider.

K. An interconnected VoIP service provider shall collect the 9-1-1 VoIP emergency service fee in an amount equal to the amount approved as provided for in subsection B of this section for each VoIP service user within the boundaries of the governing body as determined by the primary service address of the user and shall pay the money collected to the governing body not later than thirty (30) days after the last day of the month during which the fees were collected. The interconnected VoIP service provider may retain an administrative service fee of up to two percent (2%) of the amount collected when remitted in the time specified, unless otherwise agreed upon. The money remitted to the governing body and any other money collected to fund the Enhanced 9-1-1 emergency service system, shall be deposited in a designated 9-1-1 account established by the governing body.

L. The governing body 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 Enhanced 9-1-1 emergency system. The audit may be conducted by the State Auditor and Inspector at the discretion of the governing body. All audits shall be conducted in accordance with generally accepted audit 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 audit of the emergency 9-1-1 system accounts may be paid for and be considered a part of the operating expenses of the emergency 9-1-1 system.

M. Notwithstanding any other provision of the Nine-One-One Voice Over Internet Protocol (VoIP) Emergency Service Act, a VoIP service user shall not be liable for and an interconnected VoIP service provider shall not be required to collect the 9-1-1 VoIP emergency service fee on any interconnected VoIP service upon which a nine-one-one emergency telephone fee is paid in accordance with the Nine-One-One Emergency Number Act or the Nine-One-One Wireless Emergency Number Act. In addition, a VoIP service user shall not be liable for and a local exchange telephone company or wireless service provider shall not be required to collect the nine-one-one emergency telephone fees paid in accordance with the Nine-One-One Emergency Number Act or the Nine-One-One Wireless Emergency Number Act for any service upon which the 9-1-1 VoIP emergency service fee is paid pursuant to this act.

SECTION 4. This act shall become effective November 1, 2006.

50-2-9554 KB 02/27/06