

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 786

By: Monson

AS INTRODUCED

An Act relating to the Nine-One-One Emergency Number Act; amending 63 O.S. 2001, Section 2813, which relates to definitions; modifying definitions; amending 63 O.S. 2001, Section 2814, which relates to political subdivisions authorized to operate emergency telephone service, service fees and rates; replacing definition; amending 63 O.S. 2001, Section 2843, as amended by Section 1, Chapter 456, O.S.L. 2002 (63 O.S. Supp. 2004, Section 2843), which relates to Nine-One-One Wireless Emergency Number Act; deleting a definition; amending 63 O.S. 2001, Section 2843.1, as amended by Section 2, Chapter 456, O.S.L. 2002 (63 O.S. Supp. 2004, Section 2843.1), which relates to emergency wireless telephone fees; specifying a maximum nine-one-one emergency wireless telephone fee to submit to voters in a county; deleting reference to certain agreements; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 2813, is amended to read as follows:

Section 2813. As used in the Nine-One-One Emergency Number Act, Section 2811 et seq. of this title, 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 telephone service" means any telephone system utilizing 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;

3. "Emergency telephone fee" means a fee to finance the operation of emergency telephone service;

4. "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 this title. Any such combined administering board shall be formed and shall enter into an agreement between 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;

5. "Local exchange telephone company" means any company providing ~~exchange~~ any telephone services to any service user in this state, and shall include any competitive local exchange carrier as defined in Section 139.102 of Title 17 of the Oklahoma Statutes, as well as, any company providing transmission of voice conversation over a data network to access 911;

6. "Person" means any service user, including but not limited to, 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;

7. "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. "Service user" means any person who is provided ~~exchange telephone~~ publicly available voice telecommunication service in this state; and

9. "~~Tariff~~ Basic service rate" means the rate or rates billed by a ~~local exchange telephone company stated in tariffs applicable for such company, as approved by the Oklahoma Corporation Commission~~ telecommunication carrier providing voice telecommunication services to subscribers of voice services in Oklahoma, which represent the recurring charges ~~of such local exchange telephone company for exchange telephone~~ for basic telephone service or its equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever. "Telecommunications carrier" and "telecommunication services" shall have the same meaning as is set forth in Section 139.102 of Title 17 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2814, is amended to read as follows:

Section 2814. A. In addition to other powers for the protection of the public health, a governing body may provide for the operation of an emergency telephone service and may impose an emergency telephone fee, as provided in this section, for emergency telephone service 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 if necessary for the operation of the emergency telephone 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 emergency telephone service and to impose an emergency telephone fee in the area to be served by the system. The ordinance or resolution shall

submit to the voters in the area to be served the question of the imposition of emergency telephone service and the amount of the emergency telephone fee. The ordinance or resolution shall propose the amount of the emergency telephone fee to begin the second year and for each year thereafter, in an amount not greater than fifteen percent (15%) of the ~~tariff~~ basic service rate, and shall call for an election to be held within one (1) year from the date the ordinance or resolution is adopted.

The ordinance or resolution shall also provide for the collection of an amount not to exceed five percent (5%) of the ~~tariff~~ basic service rate in areas subject to the jurisdiction of the governing body for a period of no longer than one (1) year. The one (1) year, five percent (5%) fee shall be a part of, not an addition to, the fee set by the voters. The collection of the five percent (5%) fee may begin, prior to the election, within thirty (30) days after the resolution or ordinance becomes effective. The one (1) year, five percent (5%) fee shall be used to provide for the cost of conducting the election to set the emergency telephone fee and any initial or start-up cost necessary to implement the emergency telephone service. If the fee is not approved by the electors, any remaining money collected during the first year shall be distributed to the local exchange telephone company and then shall be refunded to each service user charged on a pro rata basis.

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 three percent (3%) of the total number of votes cast in the next preceding 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 three percent (3%) of the total number of votes cast in the next preceding election of the city.

The petitions may request that the question of the installation and operation of emergency telephone service and imposition of the one (1) year, five percent (5%) emergency telephone fee as called for in the resolution or ordinance be disapproved.

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 sixty (60) days following the certification of the petition.

If a majority of the votes cast in an election held pursuant to subsection B of this section disapprove the operation of emergency telephone service and imposition of an emergency telephone fee or a majority of the votes cast disapprove the one (1) year, five percent (5%) emergency telephone fee, upon certification of the election results by the county election board or boards, the resolution or ordinance shall not take effect and the emergency telephone service and the emergency telephone fee called for in the resolution or ordinance shall not be imposed. If the resolution or ordinance is disapproved by the electors, any remaining money collected during the first year shall be distributed to the local exchange telephone company and then shall be refunded to each service user charged on a pro rata basis.

D. If the governing board does not take action to provide for the operation of emergency telephone service and to impose an emergency telephone fee as provided in subsection B of this section, there may be filed with the county election board or boards of the affected area a petition signed by not less than three percent (3%) of the total numbers of votes cast in the next preceding election of the affected area.

The petition shall request that the question of the installation and operation of emergency telephone service and imposition of a fee in an amount not greater than fifteen percent (15%) of the ~~tariff~~ basic service rate 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 sixty (60) days following the certification of the petition.

If a majority of the votes cast at an election held pursuant to this subsection approve the installation and operation of emergency telephone service and imposition of an emergency telephone fee the governing body shall provide for the installation and operation of the service, 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.

E. 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 an emergency telephone fee pursuant to the provisions of the Nine-One-One Emergency Number Act. The approved emergency telephone fee shall be effective upon certification of the election results by the county election board or boards. Except as provided for in subsections G and I of this section, an emergency telephone fee imposed prior to the effective date of this act shall continue at the established amount until an election to change the fee is called as provided for in this section.

F. If a majority of the votes cast at an election held pursuant to subsection B of this section approve the installation and

operation of emergency telephone service and imposition of an emergency telephone fee, the governing body shall provide for the installation and operation of the service and impose the approved fee. The initial five percent (5%) fee, established by resolution or an ordinance, as provided pursuant to the provisions of subsection B of this section shall remain in effect for the remainder of the first year.

G. The emergency telephone fee approved pursuant to the provisions of this section shall be reviewed at least once each calendar year by the governing body which shall, in accordance with subsection D of Section 2815 of this title, establish the amount of the fee for the next calendar year, not to exceed the amount set by the electors. The governing body shall have the power and authority to reduce the emergency telephone fee being paid by the service users of the emergency telephone system to the estimated amount needed for the annual operation and maintenance of the system. If the governing body makes a reduction and in a subsequent year determines it is necessary to increase the fee to operate and maintain the system, the governing body may raise the fee up to an amount not to exceed the amount previously set by the electors. Any fee imposed by the electors of a county, municipality or area served shall remain at the amount approved by the electors until a new vote of the electors is conducted in the manner for which an election may be conducted to impose a fee as provided for in this section. The proceeds of the fee shall be utilized to pay for the operation of emergency telephone 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 emergency telephone service at the discretion of the governing body.

H. If the fee approved by the voters is less than fifteen percent (15%) and the governing body determines there exists a need

for ancillary communications systems necessary to communicate the reported emergency to the appropriate emergency service and personnel and the governing body also determines that the fee set by the electors is not sufficient to fund the ancillary communications systems, the governing body may by resolution or ordinance call an election to submit the question of raising the voter-approved fee in a sufficient amount, not to exceed fifteen percent (15%), for such additional time as determined by the governing body it is necessary to purchase the ancillary communications equipment. The vote shall be conducted in the manner provided for in subsection B of this section.

I. A governing body with an existing emergency telephone service system in operation prior to the effective date of this act may by ordinance or resolution restore the emergency telephone fee set at three percent (3%) to an amount not to exceed five percent (5%) of the ~~tariff~~ basic service rate for such additional time as is necessary to fund ancillary communications equipment necessary to communicate the reported emergency to the appropriate emergency service and personnel.

Within sixty (60) days of the publication of the resolution adopted pursuant to this subsection, there may be filed with the county election board of the affected county or counties a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding general election of the county or affected area.

Within sixty (60) days of publication of an ordinance adopted by a municipality pursuant to this subsection, 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 three percent (3%) of the total number of votes cast in the next preceding election of the city.

The petitions may request that the question of restoring the emergency telephone fee to an amount not to exceed five percent (5%) of the ~~tariff~~ basic service rate to fund ancillary communications equipment 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 sixty (60) days following the certification of the petition. If a majority of the votes cast at the election are for restoring the emergency telephone fee to an amount not to exceed five percent (5%) of the ~~tariff~~ basic service rate to fund ancillary communications equipment, the resolution or ordinance restoring the fee shall become effective. The increase of the fee may be implemented within thirty (30) days after the resolution or ordinance becomes effective.

J. The ~~tariff~~ basic service rate used for initial calculation of the emergency telephone service fee shall remain static for the purpose of calculating future fees for emergency telephone service. Therefore, future rate changes for emergency telephone service shall be stated as a percentage of the initial ~~tariff~~ basic service rate.

K. The emergency telephone fee shall be imposed only upon the amount received from the ~~tariff~~ basic service rate for exchange telephone service or its equivalent. No fee shall be imposed upon more than one hundred exchange access lines or their equivalent per person per location.

L. Every billed service user shall be liable for any fee imposed pursuant to this section until it has been paid to the local ~~exchange~~ telephone company.

M. The duty to collect any fee imposed pursuant to the authority of the Nine-One-One Emergency Number Act from a 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 local ~~exchange~~ telephone company shall be added to and shall be stated separately in the billings to the service user.

N. The local ~~exchange~~ telephone company shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this section, however, should any service user tender a payment insufficient to satisfy all charges, ~~tariffs~~ basic services, fees and taxes for ~~exchange~~ telephone service, the amount tendered shall be credited to the emergency telephone fee in the same manner as other taxes and fees. The local ~~exchange~~ telephone company shall annually provide the governing body with a list of amounts uncollected along with the names and addresses of those service users which carry a balance that can be determined by the local ~~exchange~~ telephone company to be nonpayment of any fee imposed pursuant to the authority of this section.

O. Any 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 ~~exchange~~ telephone service in accordance with the regular billing practice of the local ~~exchange~~ telephone service. The ~~tariff~~ basic service rates determined by or stated in the billing of the local ~~exchange~~ telephone company shall be presumed to be correct if such charges were made in accordance with the business practices of the local ~~exchange~~ telephone company. The presumption may be rebutted by evidence which establishes that an incorrect ~~tariff~~ basic service rate was charged.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 2843, as amended by Section 1, Chapter 456, O.S.L. 2002 (63 O.S. Supp. 2004, 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 this title. 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 which the wireless service provider is required to provide pursuant to the Federal Communications Commission Order 94-102 (961 Federal Register 40348);

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, and shall include any competitive local exchange carrier as defined in Section 139.102 of Title 17 of the Oklahoma Statutes;

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;

7. "Place of primary use" shall have the same meaning as defined in Section 55001 of Title 68 of the Oklahoma Statutes;

8. "Proprietary information" shall include subscriber, market share, cost and review information;

9. "Public agency" means any city, town, county, municipal corporation, public district, public trust, substate planning district 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;

10. "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);

11. "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;

12. "Wireless telecommunications connection" means the ten-digit access number assigned to a customer regardless of whether more than one such number is aggregated for the purpose of billing a service user; ~~and~~

~~13. "Uniform statewide agreement" means an agreement between each wireless service provider and the substate planning district providing the terms of implementation, installation, maintenance and reimbursement for the provision of nine-one-one wireless emergency telephone service. Each substate planning district or public agency shall operate under the uniform statewide agreement. The terms of such agreement shall be negotiated by representatives from each substate planning district in paragraph 10 of this section and representatives of the wireless service providers operating in the State of Oklahoma on the effective date of this act.~~

SECTION 4. AMENDATORY 63 O.S. 2001, Section 2843.1, as amended by Section 2, Chapter 456, O.S.L. 2002 (63 O.S. Supp. 2004, Section 2843.1), is amended to read as follows:

Section 2843.1 A. To provide for processing nine-one-one emergency wireless 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 subscriber's place of primary use. The resolution shall include the amount of the emergency telephone fee ~~which shall be fifty cents (\$0.50)~~ in an amount not greater than One Dollar and fifty cents (\$1.50) 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 subscriber's place of primary use 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 two percent (2%) of the amount collected when remitted in the time specified, unless otherwise agreed upon. The money remitted to the

substate planning district and any other money collected to fund the emergency wireless telephone system shall be deposited in a special wireless nine-one-one account established by the district.

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 remitted to the public agency and any other money collected to fund the emergency wireless telephone system shall be deposited in a special wireless nine-one-one account established by the substate planning district. From the emergency wireless telephone fee, the substate planning districts shall distribute to other public agencies in the county their proportionate share attributable to emergency wireless telephone services as determined by at least an annual census of wireless users provided by the wireless service provider. All wireless user information provided by a wireless service provider shall be deemed proprietary and is not subject to disclosure to the public or any other party. Remittance of the fee to a public agency may begin at any time if an existing emergency wireless 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 the date that a wireless service provider receives notice from a local county that the voters in a county have approved the fee, the amount of such 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 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 nine-one-one emergency wireless telephone fee in the same manner as other taxes and fees. The wireless service provider shall at least annually provide the governing body with a list of amounts uncollected along with the names and addresses of those service users who carry a balance that can be determined by the wireless service provider to be nonpayment of any fee imposed pursuant to the authority of this section.

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. However, if the public agency has not deployed nine-one-one emergency wireless telephone

service within twenty-four (24) months from the initial collection of the fee under subsection B of this section, the collection of the fee may be suspended until such service is deployed. A wireless service provider is not liable for failing to suspend collection of a fee.

H. On receipt of an invoice from a wireless service provider for the implementation, installation, maintenance and operation of nine-one-one emergency wireless telephone service, the public agency shall reimburse the wireless service provider ~~in accordance with the uniform statewide agreement~~ for all agreed to expenses related to nine-one-one emergency wireless telephone service. Reimbursement shall be made on a competitively neutral basis.

SECTION 5. This act shall become effective July 1, 2005.

SECTION 6. 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.

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