

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 175

6 By: Anderson

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Nine-One-One system; amending
9 Section 1, S.J.R. No. 42, O.S.L. 2002, as last
10 amended by Section 8, Chapter 157, O.S.L. 2004 (74
11 O.S. Supp. 2010, Section 51.1), which relates to the
12 Oklahoma Office of Homeland Security; authorizing the
13 Director of Homeland Security to employ certain
14 personnel position; amending 63 O.S. 2001, Sections
15 2843.1, as last amended by Section 2, Chapter 191,
16 O.S.L. 2010, and 2844, as last amended by Section 3,
17 Chapter 303, O.S.L. 2005 (63 O.S. Supp. 2010,
18 Sections 2843.1 and 2844), which relate to collection
19 and records of emergency wireless telephone fees;
20 modifying receiving entity for certain remittance;
21 deleting certain audit authority; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY Section 1, S.J.R. No. 42, O.S.L.
2002, as last amended by Section 8, Chapter 157, O.S.L. 2004 (74
O.S. Supp. 2010, Section 51.1), is amended to read as follows:

Section 51.1 A. There is hereby created the Oklahoma Office of
Homeland Security. The Governor shall be the chief officer of the
Office and shall appoint a Homeland Security Director who shall be

1 responsible to the Governor for the operation and administration of
2 the Office. The Governor shall determine the salary for the
3 Director.

4 B. The Oklahoma Homeland Security Director shall possess or
5 obtain a federally recognized Top Secret Level Clearance.

6 1. Any employee of state government appointed to the position
7 of Oklahoma Homeland Security Director shall have a right to return
8 to the previously held classified position of the employee without
9 any loss of rights, privileges, or benefits immediately upon
10 completion of the duties as Oklahoma Homeland Security Director,
11 provided the employee is not otherwise disqualified.

12 2. Any person appointed to the position of Oklahoma Homeland
13 Security Director, if already a member of a state retirement system,
14 shall be eligible to continue participation in that system. If not
15 a member of a state retirement system, the Director shall be
16 eligible to participate in the Oklahoma Public Employees Retirement
17 System. The Oklahoma Homeland Security Director shall be eligible
18 for participation in only one retirement system and shall elect in
19 writing the system in which the Director intends to participate.

20 3. The Commissioner of the Department of Public Safety may
21 commission the Director of Homeland Security as a peace officer if
22 at the time of appointment the Director is certified as a law
23 enforcement officer by the Council on Law Enforcement Education and
24 Training (CLEET) or as a state trooper if at the time of appointment

1 the Director is a CLEET-certified officer of the Oklahoma Highway
2 Patrol.

3 C. The Oklahoma Office of Homeland Security shall consist of at
4 least three divisions:

- 5 1. Prevention and Intelligence;
- 6 2. Response and Recovery Planning; and
- 7 3. Awareness and Preparedness.

8 D. The Director shall be authorized to employ personnel
9 necessary to achieve the mission of the Office, including the
10 position of State 9-1-1 Coordinator which shall oversee the nine-
11 one-one systems of this state. Other federal, state, and local
12 personnel may be assigned to the Office of Homeland Security
13 pursuant to an interagency agreement. The Governor shall designate
14 at which appropriate state agency the Oklahoma Office of Homeland
15 Security shall be located. That agency shall provide housing,
16 administrative staff and other support to the Oklahoma Office of
17 Homeland Security. All positions and personnel of the Office of
18 Homeland Security shall be exempt from the full-time-employee limit
19 of the state agency where the Office of Homeland Security is
20 located.

21 E. The Oklahoma Homeland Security Director shall have the duty
22 and responsibility to develop and coordinate the implementation and
23 administration of a comprehensive statewide strategy to secure the
24 State of Oklahoma from the results of acts of terrorism, from a

1 public health emergency, from cyberterrorism, and from weapons of
2 mass destruction as that term is defined in 18 U.S.C., Section
3 2332a, and to perform other duties assigned by the Governor. These
4 duties shall include but not be limited to:

5 1. Representing the State of Oklahoma with federal agencies as
6 the state homeland security director for purposes of accessing
7 federal funds and cooperating with federal agencies in the
8 development and implementation of a nationwide homeland security
9 plan of response; and

10 2. Coordinating the Homeland Security efforts within the State
11 of Oklahoma, including working with the Governor and Legislature,
12 state agencies, and local elected officials and local governments,
13 emergency responder groups, private-sector businesses, educational
14 institutions, volunteer organizations, and the general public.
15 State agencies receiving federal funding for homeland security
16 purposes shall report the amount and intended use of those funds to
17 the Oklahoma Homeland Security Director to ensure efficient use of
18 funds and to avoid duplication of efforts.

19 F. Included in the comprehensive statewide strategy and
20 consistent with the National Strategy for Homeland Security, as
21 promulgated by the Office of the President of the United States, or
22 its successor plan or plans, the Oklahoma Homeland Security Director
23 shall establish the following strategic objectives for Oklahoma:

24 1. To prevent terrorist attacks;

1 2. To reduce vulnerability to terrorism;

2 3. To minimize the damage from and to recover from terrorist
3 attacks; and

4 4. Such other duties as the Governor may prescribe.

5 G. The Oklahoma Office of Homeland Security shall have the
6 following duties:

7 1. Establish a plan for the effective implementation of a
8 statewide emergency All-Hazards response system, including the
9 duties and responsibilities of regional emergency response teams;

10 2. Create, implement, and administer an advisory system;

11 3. Coordinate and prepare applications for federal funds
12 related to homeland security and accessing and distributing the
13 federal funds; and

14 4. Cooperate with federal agencies in the development and
15 implementation of a nationwide homeland security plan or response.

16 H. The Oklahoma Office of Homeland Security and any local
17 government may enter into contracts with each other for equipment
18 and personnel, or both. The contract may include any provisions
19 agreed upon by the parties and as required by any federal or state
20 grant, if applicable.

21 I. All state agencies and political subdivisions of this state
22 and all officers and employees of those agencies and political
23 subdivisions are hereby directed to cooperate with and lend
24 assistance to the Oklahoma Homeland Security Director.

1 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2843.1, as
2 last amended by Section 2, Chapter 191, O.S.L. 2010 (63 O.S. Supp.
3 2010, Section 2843.1), is amended to read as follows:

4 Section 2843.1 A. To provide for processing nine-one-one
5 emergency wireless calls, the board of county commissioners of a
6 county may by resolution submit to the voters of the county the
7 question of the imposition of a nine-one-one emergency wireless
8 telephone fee for each wireless connection, excluding a connection
9 for prepaid wireless telecommunications services, in the county as
10 determined by the subscriber's place of primary use. The resolution
11 shall include the amount of the fee which shall be fifty cents
12 (\$.50) per month for each wireless connection, and shall call for
13 an election to be held within one (1) year from the date the
14 resolution is adopted. If a majority of the votes cast in an
15 election held approve the imposition of an emergency telephone fee,
16 the fee shall be imposed. A political subdivision may not impose
17 another fee on a wireless service provider or subscriber for nine-
18 one-one emergency service. The proceeds of the fee shall be
19 utilized to pay for the operation of emergency wireless telephone
20 service as specified in this section. Prepaid wireless
21 telecommunications services shall be subject only to the fees as set
22 forth in Section ~~3 of this act~~ 4843.2 of this title.

23 B. A wireless service provider shall collect the emergency
24 wireless telephone fee in an amount equal to the amount approved as

1 provided for in subsection A of this section for each wireless
2 telecommunications connection from each of its subscribers of
3 wireless telephone service within the boundaries of the county as
4 determined by the subscriber's place of primary use and shall pay
5 the money collected to the ~~substate planning district that~~
6 ~~represents that county~~ Oklahoma Office of Homeland Security not
7 later than thirty (30) days after the last day of the month during
8 which the fees were collected. The wireless service provider may
9 retain an administrative fee of two percent (2%) of the amount
10 collected when remitted in the time specified, unless otherwise
11 agreed upon. The money remitted to the ~~substate planning district~~
12 Office of Homeland Security and any other money collected to fund
13 the emergency wireless telephone system shall be deposited in a
14 special wireless nine-one-one account established by the ~~district~~
15 Office.

16 C. Money collected under subsection B of this section shall be
17 used only for services related to nine-one-one emergency wireless
18 telephone services, including automatic number identification and
19 automatic location information services. The ~~substate planning~~
20 ~~districts~~ Office of Homeland Security shall distribute the money
21 collected for each county which has approved the emergency wireless
22 telephone fee to each public agency within that county which has
23 established emergency wireless telephone service or has sent a
24 written request for installation, maintenance, and operation of an

1 emergency wireless telephone service to a wireless service provider.
2 The money remitted to the public agency and any other money
3 collected to fund the emergency wireless telephone system shall be
4 deposited in a special wireless nine-one-one account established by
5 the ~~substate planning district~~ Office of Homeland Security. From
6 the emergency wireless telephone fee, the ~~substate planning~~
7 ~~districts~~ Office of Homeland Security shall distribute to other
8 public agencies in the county their proportionate share attributable
9 to emergency wireless telephone services as determined by at least
10 an annual census of wireless users provided by the wireless service
11 provider. All wireless user information provided by a wireless
12 service provider shall be deemed proprietary and is not subject to
13 disclosure to the public or any other party. Remittance of the fee
14 to a public agency may begin at any time if an existing emergency
15 wireless telephone service is already operative or upon written
16 request by the local governing body to the provider for
17 installation, maintenance, and operation of a nine-one-one emergency
18 wireless telephone service and related equipment. Amounts not used
19 within a given year shall be carried forward.

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

23 E. The duty to collect any emergency wireless telephone fee
24 imposed pursuant to the authority of the Nine-One-One Wireless

1 Emergency Number Act from a service user shall commence on the first
2 day of the calendar quarter following the date that a wireless
3 service provider receives notice from a local county which shall be
4 at least sixty (60) days from the date that the voters in a county
5 have approved the fee, the amount of such fee and the address to
6 which the fee should be remitted. Fees imposed pursuant to this
7 section that are required to be collected by the wireless service
8 provider may be added to and shall be stated separately in any
9 billings to the service user.

10 F. The wireless service provider shall have no obligation to
11 take any legal action to enforce the collection of any emergency
12 wireless telephone fee imposed pursuant to the authority of this
13 section; however, should any service user tender a payment
14 insufficient to satisfy all charges, tariffs, fees, and taxes for
15 wireless telephone service, the amount tendered shall be credited to
16 the nine-one-one emergency wireless telephone fee in the same manner
17 as other taxes and fees. The wireless service provider shall at
18 least annually provide the governing body with a list of amounts
19 uncollected along with the names and addresses of those service
20 users who carry a balance that can be determined by the wireless
21 service provider to be nonpayment of any fee imposed pursuant to the
22 authority of this section.

23 G. Any emergency wireless telephone fee imposed pursuant to the
24 authority provided by this section shall be collected insofar as

1 practicable at the same time as, and along with, the charges for
2 wireless telephone service in accordance with the regular billing
3 practice of the wireless telephone service. However, if the public
4 agency has not deployed nine-one-one emergency wireless telephone
5 service within twenty-four (24) months or thirty-six (36) months for
6 counties with a population of less than thirty thousand (30,000),
7 from the initial collection of the fee under subsection B of this
8 section, the collection of the fee may be suspended until such
9 service is deployed. A wireless service provider is not liable for
10 failing to suspend collection of a fee.

11 H. Nothing in the Nine-One-One Wireless Emergency Number Act
12 shall be construed to limit the ability of a wireless service
13 provider from recovering its costs associated with designing,
14 developing, deploying, and maintaining wireless enhanced nine-one-
15 one service directly from the customers of the provider, whether the
16 costs are itemized on the bill of the wireless customer as a
17 surcharge or by any other lawful means.

18 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2844, as
19 amended by Section 3, Chapter 303, O.S.L. 2005 (63 O.S. Supp. 2010,
20 Section 2844), is amended to read as follows:

21 Section 2844. A. Any nine-one-one emergency wireless telephone
22 fee imposed pursuant to Section 2843.1 of this title and the amounts
23 required to be collected are due monthly. The amount of fee
24 collected in one (1) month by the wireless service provider shall be

1 remitted to the ~~appropriate substate planning district~~ Oklahoma
2 Office of Homeland Security no later than thirty (30) days after the
3 close of the month in which such fees were collected. All fees
4 collected by the wireless service provider and remitted to a
5 ~~substate planning district~~ the Office of Homeland Security and any
6 other money collected to fund the emergency wireless telephone
7 system shall be deposited in a special nine-one-one account
8 established by the ~~district~~ Office. ~~Each district shall account for~~
9 ~~all disbursements from the account established for the operation of~~
10 ~~the emergency wireless telephone system.~~

11 B. The wireless service provider shall maintain records of the
12 amount of any nine-one-one emergency wireless telephone fee
13 collected in accordance with the provisions of the Nine-One-One
14 Wireless Emergency Number Act. The records shall be maintained for
15 a period of three (3) years from the time the fee is collected. The
16 State Auditor and Inspector ~~or any substate planning district~~ or
17 public agency may require an annual audit of the books and records
18 of the wireless service provider concerning the collection and
19 remittance of the fee authorized by the Nine-One-One Wireless
20 Emergency Number Act. Auditors shall have access to all information
21 used by the wireless service provider to calculate and remit the
22 nine-one-one emergency wireless telephone fee. Any audit expenses
23 shall be reimbursable pursuant to Section 2843.1 of this title.

24

1 C. A public agency shall be required to have conducted
2 separately or as a part of the annual audit required by law of the
3 municipality or county an annual audit of any accounts established
4 or used by the governing body for the operation of an emergency
5 wireless telephone system. The audit may be conducted by the State
6 Auditor and Inspector at the discretion of the public agency. All
7 audits shall be conducted in accordance with generally accepted
8 auditing standards and Government Auditing Standards issued by the
9 Comptroller General of the United States. A copy of the audit shall
10 be filed with the State Auditor and Inspector and action taken in
11 accordance with Section 212A of Title 74 of the Oklahoma Statutes.
12 The cost of the audit of the emergency wireless telephone system
13 accounts may be paid from and be considered a part of the operating
14 expenses of the emergency wireless telephone system. Proprietary
15 information of the wireless service providers shall be confidential.
16 Audit information pertaining to revenues collected or disbursed may
17 be released only in aggregate form so that no provider-specific
18 information may be extrapolated.

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

1 the Oklahoma Open Meeting Act. Notwithstanding any other provision
2 to the contrary, all information deemed proprietary under subsection
3 C of Section 2843.1 of this title shall be held confidential.

4 SECTION 4. This act shall become effective November 1, 2011.

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