

House Bill 775
Opposition Testimony of Jeff Brandt
Before the
House Federal Relations, Energy, & Telecommunications Committee

Mr. Chairman, members of the committee, for the record my name is Jeff Brandt, Acting State Chief Information Office (CIO) and Acting Administrator of the Information Technology Services Division (ITSD), within the Department of Administration. The Statewide 9-1-1 Program is administered in my organization. I would like to introduce Ms. Becky Berger, the manager of the Statewide 9-1-1 Program.

Given our statutory responsibilities, we agree in concept to finding a means to adequately support the life-and-death issues that are so often a factor in 9-1-1. However, we have not had sufficient time to adequately react to the critical policy and technical issues included in this proposed legislation.

Our initial review of this bill raises a number of concerns. HB775 has a number of policy and technical defects we feel must be addressed. Based on the time limitations of this hearing, I will quickly summarize some of the policy issues related to the bill and give you examples of the technical issues. There will be additional items you will see in the Fiscal Note that I won't address now simply because of time constraints.

First, the policy issues:

“Haves vs. Have Nots”. At first glance, this looks like good deal for the Public Safety Answering Points (PSAPs). The concern I have is it is not so good for our rural carriers. Because of the mobile nature of a cell phone user, *all* PSAPs and carriers have to have adequate funding. This legislation could create the same *have and have not situation* that exists today.

Lack of Input from the 9-1-1 Community. The 9-1-1 Advisory Council, established by statute, has not reviewed the proposed legislation. In previous discussions of the Council, they decided to review deployments and costs during the 2005 interim and pursue legislation in 2007. Therefore, we feel this legislation is premature.

Lack of Industry Support. Montana's PSAP's and our office works with over 10 wireless carriers providing some level of service in Montana—from the very large, familiar companies with hundreds of thousands of cell phones to others that number in the hundreds. We want a bill that the majority of the carriers can support. It is our understanding more work needs to be done to garner that support.

Future Technologies. This legislation fails to provide any “forward looking” language to deal with emerging technologies and advanced telecommunications for our PSAPs.

We also have a number of technical concerns that include: 1) legal issues, 2) administrative issues, and 3) language issues (concerns over the interpretation of a particular section or the approach taken with respect to a particular issue).

First, we have identified a number of legal concerns such as how the bill addresses confidential information and the procedures to be followed for dispute resolution. Additional information will be included in the Fiscal Note.

Second, we have concerns over a number of administrative issues such as the complexity of administering the "carry over" reimbursement requirements in the bill and the difficulty of administering any "cost based" reimbursement system, especially when so much of the information is considered confidential by the wireless carriers.

Finally we also question some of other provisions in the bill including:

1. Prepaid Wireless. The proposed legislation excludes prepaid wireless services from the surcharge. The current statute for collection of basic and enhanced 9-1-1 services requires collection of fees on prepaid wireless services.

2. Partial Payments. The legislation allows the carrier to apply partial payments against the amount the customer owes before applying the surcharge. It is not uncommon for wireless monthly bills to exceed \$200 - \$300, potentially causing partial payments. The surcharge should be required on each wireless subscriber regardless of the payment amount.

3. July 1 Effective Date. The bill specifies a July 1 effective date. It will be very difficult, if not impossible, to develop the necessary procedures to determine true costs and define allowable cost recovery criteria for this complex bill, especially the provision to implement Rules (ARM).

4. Retroactive Cost Recovery. It is uncertain whether or not charges incurred prior to the effective date can be invoiced by a wireless carrier.

While we feel these issues eventually can be addressed by working with the PSAPS, wireless carriers, and the 9-1-1 Advisory Council, it would be very difficult to develop a common ground in the limited time available during this legislative session.

I would like to point out one other bit of information. In the interim, while this bill is being researched and redrafted, under FCC Report and Order 94-102, wireless carriers are permitted to recover their costs by adding a fee on their customer bills without waiting for a State to adopt legislation.

I will be available for questions.

Thank you.