

## HOUSE BILL NO. 27

INTRODUCED BY R. DRISCOLL

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A WIRELESS ENHANCED 9-1-1 EMERGENCY TELEPHONE SYSTEM AND PROVIDING FOR ITS ADMINISTRATION; PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A WIRELESS ENHANCED 9-1-1 FEE; ESTABLISHING ACCOUNTS FOR THE DEPOSIT OF FEES COLLECTED; PROVIDING FOR DISTRIBUTION OF THE FEES COLLECTED; DEFINING ELIGIBILITY CRITERIA FOR WIRELESS COST RECOVERY; AMENDING SECTIONS 10-4-101, 10-4-102, 10-4-114, 10-4-201, AND 10-4-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 10-4-101, MCA, is amended to read:

**"10-4-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Allowable costs" means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders.

~~(1)~~(2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).

~~(2)~~(3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-102 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.

~~(3)~~(4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.

(5) "Commercial mobile radio service" means:

(a) a mobile service that is:

(i) provided for profit with the intent of receiving compensation or monetary gain;

(ii) an interconnected service; and

(iii) available to the public or to classes of eligible users so as to be effectively available to a substantial portion of the public; or

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a).

~~(4)(6)~~ "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

~~(5)(7)~~ "Direct dispatch" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, provides for a decision as to the proper action to be taken and for dispatch of appropriate emergency service units.

~~(6)(8)~~ "Emergency" means an event that requires dispatch of a public or private safety agency.

~~(7)(9)~~ "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

~~(8)(10)~~ "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).

~~(9)(11)~~ "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.

~~(10)(12)~~ "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.

~~(11)(13)~~ "Exchange access services" means:

(a) telephone exchange access lines or channels that provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection ~~(11)(a)~~ (13)(a).

(14) "Federal communications commission order" means a federal communications commission enhanced 9-1-1 first report and order addressing 47 CFR 20.18.

~~(12)(15)~~ A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.

(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number

information to the public safety answering point for wireless calls.

(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.

(18) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.

~~(13)~~(19) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

~~(14)~~(20) "Provider" means a public utility, cooperative telephone company, or any other entity that provides telephone exchange access services.

~~(15)~~(21) "Public safety agency" means the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services.

~~(16)~~(22) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

~~(17)~~(23) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

~~(18)~~(24) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

~~(19)~~(25) "Transfer" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety answering agency or other provider of emergency services.

(26) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.

(27) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.

(28) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

**Section 2.** Section 10-4-102, MCA, is amended to read:

**"10-4-102. Department of administration duties and powers.** (1) The department shall assist in the development of basic and enhanced 9-1-1 systems in the state. The department shall:

(a) establish procedures for determining and evaluating requests for variations from basic or enhanced 9-1-1 service;

(b) upon request of a 9-1-1 jurisdiction, assist in planning a basic or enhanced 9-1-1 system;

(c) establish criteria for evaluating basic and enhanced 9-1-1 system plans;

(d) monitor implementation of approved basic and enhanced 9-1-1 system plans for compliance with the plan and use of funding; and

(e) as it finds necessary, report to the legislature the progress made in implementing statewide basic and enhanced 9-1-1 systems and in implementing wireless enhanced 9-1-1 services.

(2) The department shall obtain input from all 9-1-1 jurisdictions by creating an advisory council to participate in development and implementation of the 9-1-1 program in the state. The council must be established pursuant to 2-15-122. The highway patrol, emergency medical services organizations, telephone companies, the associated public safety communicators, the department of emergency services, police departments, sheriff's offices, local citizens, organizations, and other public safety organizations may submit recommendations for membership on the advisory council."

**Section 3.** Section 10-4-114, MCA, is amended to read:

**"10-4-114. Rulemaking authority.** The department may adopt rules to implement the provisions of this chapter. The rules may include but are not limited to:

(1) establishing procedures to evaluate and make determinations on requests for a variation of the basic or enhanced 9-1-1 service;

(2) establishing evaluation criteria for basic and enhanced 9-1-1 systems plans;

(3) establishing requirements for program participation by public and private safety agencies;

(4) establishing guidelines for the distribution of funds; and

(5) ~~specifying reporting requirements~~ establishing requirements regarding applications for reimbursement for allowable costs to wireless providers for enabling wireless enhanced 9-1-1 services."

**NEW SECTION. Section 4. Submission of phase II wireless notification by wireless provider.** (1)

A wireless provider must meet the following requirements to be eligible for wireless cost recovery:

(a) Within 30 days of receipt of a formal phase II request from a public safety answering point, the wireless provider shall submit to the department a notification stating the anticipated date of deployment and the number of subscribers, based on billing addresses, for the 9-1-1 jurisdiction.

(b) The department shall first determine that the wireless provider is providing phase II functionality to the public safety answering point. The wireless provider is responsible for notifying the department of the date of deployment and proof of acceptance tests.

(2) A 9-1-1 jurisdiction must be ready to provide phase II wireless service and have submitted a phase II wireless request to the wireless providers providing service in the jurisdiction's area.

**Section 5.** Section 10-4-201, MCA, is amended to read:

**"10-4-201. Fees imposed for telephone exchange access services 9-1-1 services.** (1) Except as provided in 10-4-202:

(a) for basic 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; ~~and~~

(b) for enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; and

(c) for wireless enhanced 9-1-1 services, a fee of 50 cents a month per access line or subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services.

(2) The subscriber paying for exchange access line services is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return."

**Section 6.** Section 10-4-301, MCA, is amended to read:

**"10-4-301. Establishment of emergency telecommunications accounts.** (1) There are established in the state special revenue fund in the state treasury:

(a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a); ~~and~~

(b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b); and  
(c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1)(c). The money is allocated as follows:

(i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and

(ii) 50% of the account must be deposited in an account for distribution to wireless providers.

(2) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account. An amount equal to 3.74% of the money received pursuant to 10-4-201 must be deposited in the state general fund.

(3) The accounts established in subsection (1) retain interest earned from the investment of money in the accounts.

(4) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(5) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, and 10-4-311, and [section 7], is statutorily appropriated, as provided in 17-7-502, to the department.

(6) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

**NEW SECTION. Section 7. Distribution of wireless enhanced 9-1-1 account by department.** (1)

The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2011:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be distributed evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2011, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in [section 4], the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction in accordance with 10-4-311(3) as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be distributed evenly to the counties with 1% or less than 1% of the total population of the state; and

(b) for fiscal years beginning after June 30, 2011, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

NEW SECTION. **Section 8. Codification instruction.** [Sections 4 and 7] are intended to be codified

as an integral part of Title 10, chapter 4, and the provisions of Title 10, chapter 4, apply to [sections 4 and 7].

NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2007.

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