

1 HOUSE BILL NO. 575

2 INTRODUCED BY T. BERRY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING 9-1-1 LAWS; REVISING THE DEFINITION
5 OF "ALLOWABLE COSTS"; REQUIRING THAT FEES COLLECTED FOR WIRELESS ENHANCED 9-1-1
6 SERVICES BE REALLOCATED TO WIRELESS 9-1-1 JURISDICTIONS AND WIRELESS PROVIDERS UNDER
7 CERTAIN CIRCUMSTANCES; ESTABLISHING A REALLOCATION PROCESS; PROHIBITING THE USE OF
8 CERTAIN 9-1-1 FUNDS FOR INTEROPERABLE NETWORKS FOR EMERGENCY RESPONDER
9 COMMUNICATIONS; AMENDING SECTIONS 10-4-101, 10-4-303, 10-4-312, AND 10-4-313, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."

11

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

13

14 **Section 1.** Section 10-4-101, MCA, is amended to read:15 **"10-4-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following
16 definitions apply:17 (1) "Allowable costs" ~~means~~ include but are not limited to the actual costs associated with upgrading,
18 purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software and other
19 expenses necessary to comply with current or future federal communications commission ~~orders~~ mandates for
20 the delivery of 9-1-1 calls and data.21 (2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in
22 10-4-301(1)(a).23 (3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that
24 automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.25 (4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a
26 telephone central office, trunking facilities from the central office to a public safety answering point, and
27 equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is
28 capable of providing basic 9-1-1 service.

29 (5) "Commercial mobile radio service" means:

30 (a) a mobile service that is:

- 1 (i) provided for profit with the intent of receiving compensation or monetary gain;
- 2 (ii) an interconnected service; and
- 3 (iii) available to the public or to classes of eligible users so as to be effectively available to a substantial
- 4 portion of the public; or
- 5 (b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a).
- 6 (6) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.
- 7 (7) "Direct dispatch" means a 9-1-1 service in which a public safety answering point, upon receipt of a
- 8 telephone request for emergency services, provides for a decision as to the proper action to be taken and for
- 9 dispatch of appropriate emergency service units.
- 10 (8) "Emergency" means an event that requires dispatch of a public or private safety agency.
- 11 (9) "Emergency services" means services provided by a public or private safety agency, including law
- 12 enforcement, firefighting, ambulance or medical services, and civil defense services.
- 13 (10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established
- 14 in 10-4-301(1)(b).
- 15 (11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1
- 16 service and that consists of selective routing with the capability of automatic number identification and automatic
- 17 location identification at a public safety answering point enabling users of the public telecommunications system
- 18 to request emergency services by dialing the digits 9-1-1.
- 19 (12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the
- 20 operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic
- 21 location identification controllers and display units, printers, and software associated with call detail recording,
- 22 and that is capable of providing enhanced 9-1-1 service.
- 23 (13) "Exchange access services" means:
- 24 (a) telephone exchange access lines or channels that provide local access from the premises of a
- 25 subscriber in this state to the local telecommunications network to effect the transfer of information; and
- 26 (b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or
- 27 service provided in connection with the services described in subsection (13)(a).
- 28 ~~(14) "Federal communications commission order" means a federal communications commission~~
- 29 ~~enhanced 9-1-1 first report and order addressing 47 CFR 20.18.~~
- 30 ~~(15)~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or

1 are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a
2 9-1-1 emergency telephone system.

3 ~~(16)~~(15) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number
4 information to the public safety answering point for wireless calls.

5 ~~(17)~~(16) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number
6 information and location information to the public safety answering point for wireless calls.

7 ~~(18)~~(17) "Place of primary use" means the primary business or residential street address location at which
8 an end-use customer's use of the commercial mobile radio service primarily occurs.

9 ~~(19)~~(18) "Private safety agency" means any entity, except a public safety agency, providing emergency
10 fire, ambulance, or medical services.

11 ~~(20)~~(19) "Provider" means a public utility, a cooperative telephone company, or any other entity that
12 provides telephone exchange access services.

13 ~~(21)~~(20) "Public safety agency" means the state and any city, county, city-county consolidated
14 government, municipal corporation, chartered organization, public district, or public authority located in whole or
15 in part within this state that provides or has authority to provide emergency services.

16 ~~(22)~~(21) "Public safety answering point" means a communications facility operated on a 24-hour basis
17 that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch
18 public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

19 ~~(23)~~(22) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a
20 telephone request for emergency services, notes the pertinent information from the caller and relays the
21 information to the appropriate public safety agency, other agencies, or other providers of emergency services for
22 dispatch of an emergency unit.

23 ~~(24)~~(23) "Subscriber" means an end user who receives telephone exchange access services or who
24 contracts with a wireless provider for commercial mobile radio services.

25 ~~(25)~~(24) "Transfer" means a 9-1-1 service in which a public safety answering point, upon receipt of a
26 telephone request for emergency services, directly transfers the request to an appropriate public safety agency
27 or other provider of emergency services.

28 ~~(26)~~(25) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless
29 enhanced 9-1-1.

30 ~~(27)~~(26) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established

1 in 10-4-301.

2 ~~(28)(27)~~ "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal
3 communications commission to provide facilities-based commercial mobile radio service within this state."

4

5 **Section 2.** Section 10-4-303, MCA, is amended to read:

6 **"10-4-303. Limitation on use of basic 9-1-1 funds.** (1) Money received under ~~subsection (3) of~~
7 10-4-302(3) may be used only to pay for installing, operating, and improving a basic 9-1-1 emergency telephone
8 system. A basic 9-1-1 emergency telephone system does not include interoperable networks for emergency
9 responder communications.

10 (2) (a) Money not necessary for immediate use may be invested by the city or county.

11 (b) The income from the investments may be used only for the purposes described in this section."

12

13 **Section 3.** Section 10-4-312, MCA, is amended to read:

14 **"10-4-312. Limitation on use of enhanced 9-1-1 funds.** (1) Money received under 10-4-311(3) or (4)
15 may be used only to pay for installing enhanced 9-1-1 features or for operating and improving an emergency
16 telephone system using 9-1-1 service once the plan for converting to enhanced 9-1-1 has been approved. An
17 emergency telephone system using 9-1-1 service does not include interoperable networks for emergency
18 responder communications.

19 (2) With department approval, money received under 10-4-311(3) or (4) may be used to pay for basic
20 9-1-1 service. The 9-1-1 jurisdiction shall submit a request for an exception under this subsection to the
21 department based on a demonstrated hardship, including geographical constraints, funding limitations, or
22 absence of technical capability or capacity.

23 (3) Money not necessary for immediate use may be invested by the city or county. The income from the
24 investments may be used only for the purposes described in this section."

25

26 **Section 4.** Section 10-4-313, MCA, is amended to read:

27 **"10-4-313. Distribution of wireless enhanced 9-1-1 account by department.** (1) The department shall
28 make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described
29 in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

30 (a) For each fiscal year through the fiscal year ending June 30, 2015:

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

4 (ii) the balance of the account must be allocated evenly to the wireless providers providing wireless
5 enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

6 (iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted
7 to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing
8 wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

9 (b) For fiscal years beginning after June 30, 2015, 100% of the balance of the account must be allocated
10 to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county
11 must be allocated a minimum of 1% of the balance of the counties' share of the account.

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

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

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

28 (f) If the department determines that a wireless provider has submitted costs that exceed allowable costs
29 or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless
30 provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

1 (2) If the department determines that a distribution has not been made in accordance with subsection
2 (1) within a 3-year period, the money must be reallocated in accordance with subsection (3).

3 (3) (a) Except as provided in subsection (4), if the department determines a reallocation is required
4 pursuant to subsection (2), the department, within 30 days of the end of the final quarter of each fiscal year, shall:

5 (i) verify that a distribution under subsection (1) has not occurred;

6 (ii) determine an amount equal to 50% of the total balance included in the account under
7 10-4-301(1)(c)(ii); and

8 (iii) except as provided in subsection (3)(b), distribute the amount determined in accordance with
9 subsection (3)(a)(ii) to wireless providers to reimburse the unpaid balances carried over by wireless providers
10 pursuant to subsection (1)(c).

11 (b) If the amount determined pursuant to subsection (3)(a)(ii) is insufficient to fully reimburse all wireless
12 providers in accordance with subsection (3)(a)(iii), the department shall proportionately, based on outstanding
13 balances, allocate the money to each wireless provider that has an unpaid balance carried over pursuant to
14 subsection (1)(c).

15 (4) Funds may not be reallocated in accordance with subsection (2) if:

16 (a) the wireless provider fund balance for the 9-1-1 jurisdiction under subsection (1) is less than
17 \$100,000; or

18 (b) the county contains less than 1% of the state population.

19 (5) Any reallocated funds not distributed in accordance with subsections (2) through (4) must be returned
20 to the account established under 10-4-301(1)(c).

21 ~~(2)(6)~~ The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1
22 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

23 (a) for each fiscal year through the fiscal year ending June 30, 2015:

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

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

28 (iii) prior to distribution, the amounts allocated under subsections ~~(2)(a)(i) and (2)(a)(ii)~~ (6)(a)(i) and
29 ~~(6)(a)(ii)~~ must be adjusted to ensure that a county does not receive less than the amount allocated to counties
30 with 1% or less of the total population of the state; and

1 (b) for fiscal years beginning after June 30, 2015, 100% of the balance of the account must be allocated
2 to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the
3 balance of the counties' share of the account.

4 (7) Money distributed in accordance with subsection (6) may not be used to fund interoperable networks
5 for emergency responder communications."

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7 NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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10 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
12 remains in effect in all valid applications that are severable from the invalid applications.

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14 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2013.

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