

2016 Regular Session

HOUSE BILL NO. 805

BY REPRESENTATIVE BROADWATER

DISTRICTS/COMMUNICATIONS: Provides relative to communication districts

1 AN ACT

2 To amend and reenact R.S. 33:9106(A)(3) and 9109 and to enact R.S. 33:9109.2, relative to
3 communications districts; to provide relative to the levy of an emergency telephone
4 service charge on certain communications systems; to increase the maximum amount
5 authorized to be levied within the district; to provide relative to the use of service
6 charge proceeds; to provide relative to the district's financial reports; to provide
7 relative to revenues collected from certain surcharge fees; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9106(A)(3) and 9109 are hereby amended and reenacted and R.S.
11 33:9109.2 is hereby enacted to read as follows:

12 §9106. Funding; definitions; emergency telephone service charge

13 A. As used in this Section, the following words and terms shall have the
14 following meanings, unless the context clearly indicates otherwise:

15 * * *

16 (3) "Exchange access facilities" means all lines, provided by the service
17 supplier for the provision of local exchange service, as defined in existing general
18 subscriber services tariffs, as well as all lines as defined in 47 C.F.R. 9.3
19 interconnected Voice over Internet Protocol (VoIP). For a Primary Rate Interface
20 (PRI) circuit, the access line equivalent shall be equal to the capacity for
21 simultaneous outward calls to the public switched telephone network.

22 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §9109. Additional service charge on wireless telecommunications service

2 A. Intent. (1) The Federal Communications Commission has ~~issued rulings~~
3 ~~requiring that suppliers of cellular and other forms of wireless telecommunications~~
4 ~~services capable of accessing the 911 emergency telephone number provide certain~~
5 ~~enhancements to their services when requested by a communications district. These~~
6 ~~enhancements will automatically provide the number and location of the wireless~~
7 ~~caller to the communications district when a caller accesses 911. Although these~~
8 ~~enhancements currently exist for persons dialing 911 from "landline telephones",~~
9 ~~certain technological enhancements must be made in order to provide this~~
10 ~~information from wireless devices~~ outlined a plan that will require the public safety
11 community to field a new generation of 911 emergency call services which will
12 allow the use of additional and widely used digital media to contact Public Safety
13 Answering Points (PSAPs). Next Generation 911 (NG911) will permit the public
14 use of text messages, data, videos, as well as voice to transmit emergency
15 information to the servicing PSAP. It will allow this data to be further shared with
16 first responders for their use enroute to and at emergency scenes. Specific
17 technological enhancements shall be made within each PSAP in order to receive and
18 utilize this information from wireless devices.

19 (2) The legislature ~~also~~ finds that it is in the public interest ~~to automatically~~
20 ~~provide a wireless caller's telephone number when such a caller requests emergency~~
21 ~~services by calling the 911 telephone number~~ for 911 systems operated by the
22 communication districts within Louisiana to provide NG911 service to the public
23 when the necessary technological requirements can be met and sufficient funding to
24 make these improvements becomes available.

25 (3) ~~The Federal Communications Commission further requires that a~~
26 ~~mechanism be established which will enable wireless service suppliers and~~
27 ~~communications districts to recover all costs associated with providing the enhanced~~
28 ~~service.~~

1 ~~(4)(3)~~ It is the purpose of this Section to provide funding for ~~such a cost~~
2 ~~recovery mechanism~~ NG911, E911, 911 call taking, dispatch, telecommunication
3 ~~systems for first responders~~ and for other lawful purposes of communications
4 districts. ~~It is also the purpose of this Section to provide civil immunity for the~~
5 ~~provision of 911 services by wireless service suppliers and all communications~~
6 ~~districts.~~

7 B. Definitions. As used in this Section, the following words and terms shall
8 have the following meanings, unless the context clearly indicates otherwise:

9 (1) The term "automatic number identification" or "ANI" means an enhanced
10 911 service capability that enables the automatic display of the ten-digit wireless
11 telephone number used to place a 911 call and includes "pseudo-automatic number
12 identification" or "pseudo-ANI", which means an enhanced 911 service capability
13 that enables the automatic display of the number of the cell site and an identification
14 of the CMRS provider.

15 (2) The term "CMRS" means commercial mobile radio service ~~under Section~~
16 ~~3(27) and 332(d) of the Telecommunications Act of 1996, 47 United States Code~~
17 ~~Section 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L.~~
18 ~~103-66. The term includes the term "wireless" and includes service provided by any~~
19 ~~wireless real time two-way voice communication device, including a radio-telephone~~
20 ~~communications line used in cellular telephone service, a personal communication~~
21 ~~service, specialized mobile radio service, or a network radio access line. The term~~
22 ~~does not include service whose customers do not have access to 911 or to a similar~~
23 ~~service, to a communication channel suitable only for data transmission, to a wireless~~
24 ~~roaming service or other nonlocal radio access line service, to paging services, or to~~
25 ~~a private telecommunications system as defined by 47 C.F.R. 20.3. In addition, the~~
26 ~~term as used in this Section includes any wireless service capable of accessing 911~~
27 ~~through the use of voice, text, video, image, data, or any other means.~~

28 (3) The term "service supplier" means a person or entity who provides
29 CMRS service.

1 (4) The term "CMRS connection" means each ~~mobile handset device~~
2 telephone number assigned to a CMRS customer.

3 (5) The term "service charge" means the CMRS emergency telephone
4 service charge levied and collected pursuant to this Section.

5 (6) The term "district" means a communications district created pursuant to
6 this Chapter or pursuant to or by any local or special Act.

7 (7) The term "E911" means an emergency telephone system that provides
8 the caller with emergency 911 system service, that directs 911 calls to appropriate
9 public safety answering points by selective routing based on the geographical
10 location from which the call originated, and that provides the capability for
11 automatic number identification and other features that the Federal Communications
12 Commission may require in the future.

13 ~~(8) The term "FCC order" means the order of the Federal Communications~~
14 ~~Commission, FCC Docket No. 94-102, adopted on June 12, 1996, and released on~~
15 ~~July 26, 1996.~~

16 ~~(9) The term "wireless E911 service" means E911 service that provides~~
17 ~~automatic number identification of wireless subscribers as required by the FCC~~
18 ~~order.~~

19 C. Service charge. The governing authority of any district may levy a
20 CMRS emergency telephone service charge subject to and in accordance with the
21 provisions of this Subsection. Such service charge:

22 (1) Shall be levied only on CMRS service which enables a service user to
23 access the 911 emergency telephone number through the use of a CMRS connection.

24 (2) Shall not exceed ~~eighty-five cents~~ one dollar and twenty-five cents per
25 month per wireless CMRS connection or the rate which the district levies or is
26 authorized to levy on CMRS users on ~~July 9, 1999~~ August 1, 2016, whichever is
27 higher.

28 (3)(a) Shall be levied by resolution or ordinance of the governing authority
29 of the district. If the district levies an emergency telephone service charge, tax,

1 charge, surcharge, or fee on ~~July 9, 1999~~ August 1, 2016, it shall not be required to
2 adopt a new ordinance or resolution except to change the rate thereof.

3 (b) If a district governing authority levies no emergency telephone service
4 charge, tax, charge, surcharge, or fee on local telephone service, or on exchange
5 access facilities or their equivalent, the resolution or ordinance levying the service
6 charge authorized by this Section shall not be adopted until such levy has been
7 approved by a majority of the voters of the district voting at an election held for such
8 purpose.

9 (c) If the district levies any emergency telephone service charge, tax, charge,
10 surcharge, or fee on local telephone service, or on exchange access facilities or their
11 equivalent, which has been approved by the voters of the district, voter approval of
12 the service charge authorized by this Section shall not be required.

13 (4) Shall be levied against each CMRS connection for which the billing
14 address is within the district. In the absence of a billing address, the service charge
15 shall be levied against each CMRS connection for which the primary use is within
16 the district. Notwithstanding the foregoing, the application of a CMRS emergency
17 telephone service charge to any mobile telecommunications service, as defined in
18 R.S. 47:301(14)(i)(ii)(bb), shall apply only if the customer's place of primary use is
19 located within the boundaries of the political subdivision levying such CMRS
20 emergency telephone service charge. For purposes of this Paragraph, the provisions
21 of R.S. 47:301(14)(i)(ii)(bb) shall apply in the same manner and to the same extent
22 as such provisions apply to the taxes levied pursuant to R.S. 47:302(C) and 331(C)
23 on mobile telecommunications services.

24 (5) Shall have uniform application and shall be imposed throughout the
25 entirety of the district to the greatest extent possible in conformity with availability
26 of 911 service in any area of the district.

27 (6) Shall be a liability of the service user until it has been paid to the service
28 supplier.

1 (7)(a) Shall be collected as part of the supplier's normal billing process in
2 accordance with the provisions of this Paragraph.

3 (b) The service charge shall be collected by each service supplier providing
4 service in the district. The district shall notify, by certified mail, return receipt
5 requested, each service supplier of the adoption of the resolution or ordinance
6 provided for in Paragraph (3) of this Subsection. The duty of the wireless service
7 supplier to collect any such service charge or any increase in service charge
8 authorized by this Section shall commence within sixty days after receipt of such
9 notice.

10 (c) The service supplier shall add the service charge to its invoice to the
11 service user, but may state it separately therein.

12 (d)(i) The service supplier shall have no obligation to take any legal action
13 to enforce the collection of any service charge. However, the service supplier shall
14 annually provide the district governing authority with a list of the amount
15 uncollected, together with the names and addresses of those service users who carry
16 a balance that can be determined by the service supplier to be nonpayment of such
17 service charge. The service charge shall be collected in accordance with the regular
18 billing practice of the service supplier.

19 (ii) Good faith compliance by the service supplier with this provision shall
20 constitute a complete defense to any legal action or claim which may result from the
21 service supplier's determination of nonpayment or the identification of service users
22 in connection therewith or both.

23 (e)(i) The amounts collected by the service supplier attributable to any
24 service charge shall be due quarterly. The amount of service charge collected in one
25 calendar quarter by the service supplier shall be remitted to the district no later than
26 sixty days after the close of a calendar quarter.

27 (ii) On or before the sixtieth day after the close of a calendar quarter, a
28 return, in such form as the district governing authority and the service supplier agree

1 upon, shall be filed with the district, together with a remittance of the amount of
2 service charge collected payable to the district.

3 (iii) The service supplier shall maintain records of the amount of the service
4 charge collected for a period of at least two years from date of collection. The
5 district governing authority may, at its expense, require an annual audit of the service
6 supplier's books and records with respect to the collection and remittance of the
7 service charge.

8 (iv) From the gross receipts to be remitted to the district, the service supplier
9 may retain, as an administrative fee, an amount equal to one percent thereof.

10 (8) Trunks or service lines used to supply service to service suppliers and
11 used by service suppliers to provide CMRS service shall not have a service charge
12 levied against them.

13 (9) The service charge, or any part or percentage thereof, shall not be subject
14 to any sales, use, franchise, income, excise, or any other tax, fee, or assessment, and
15 shall not be considered revenue of the service supplier for any purpose.

16 ~~(10) Any person or entity otherwise exempt from taxation shall be exempt~~
17 ~~from the service charge authorized by this Section.~~

18 D. Use of proceeds. ~~(1) In any district having a population of not less than~~
19 ~~twenty thousand persons as of the most recent federal decennial census, proceeds of~~
20 ~~the service charge collected after July 9, 1999, less the administration fee which the~~
21 ~~wireless service supplier is authorized to retain, shall be used for the following~~
22 ~~purposes:~~

23 ~~(a)(i) For payment of service suppliers' and the district's costs associated~~
24 ~~with the implementation of Phase I enhancements required by the FCC Order.~~

25 ~~(ii) No district shall make payment of a service suppliers' costs associated~~
26 ~~with the implementation of Phase I enhancements required by such order unless there~~
27 ~~is a cooperative endeavor agreement between the district and the supplier delimiting~~
28 ~~the cost of implementation to be recovered by the service supplier.~~

1 ~~(iii) Once the district determines that net proceeds from the service charge~~
2 ~~remitted to the district are sufficient to implement wireless E911 service by the~~
3 ~~district and all service suppliers providing service within the district, the district~~
4 ~~shall request that each such service supplier implement such enhancements and shall~~
5 ~~provide funds to each such service supplier in accordance with the applicable~~
6 ~~agreement. In any district having a population of not less than thirty thousand~~
7 ~~persons as of the most recent federal decennial census, such enhancements shall be~~
8 ~~completed by the district and all of the service suppliers providing service within the~~
9 ~~district within one year of the initial levy of the service charge authorized by this~~
10 ~~Section. In any district having a population of less than thirty thousand but not less~~
11 ~~than twenty thousand persons, such enhancements shall be completed by the district~~
12 ~~and all of the service suppliers providing service within the district within eighteen~~
13 ~~months of the initial levy of such charge.~~

14 ~~(iv) If such a district issues the notice required by Subparagraph C(7)(a) of~~
15 ~~this Section, but fails to begin implementation of wireless E911 service within the~~
16 ~~time limits for full implementation established for the particular district by Item (iii)~~
17 ~~of this Subparagraph, the service supplier shall immediately cease collecting the~~
18 ~~CMRS emergency telephone service charge.~~

19 ~~(b) For any lawful purpose of the district.~~

20 ~~(2) In any district having a population of less than twenty thousand persons~~
21 ~~as of the most recent federal decennial census, proceeds of the service charge, less~~
22 ~~any collection charge which the wireless service supplier is authorized to retain, may~~
23 ~~be used for any lawful purpose of the district.~~

24 E.D. The financial records of the district shall be audited pursuant to the
25 provisions of R.S. 24:513. ~~In addition, each district shall submit an annual report to~~
26 ~~the legislative auditor which includes information on the revenues derived from the~~
27 ~~service charge authorized by this Section and the use of such revenues. Such report~~
28 ~~shall include a report on the status of implementation of wireless E911 service.~~

Provides that the districts are political subdivisions of the state and are generally governed by a seven-member board of commissioners.

Proposed law retains present law.

Present law provides that the Federal Communications Commission (FCC) has issued rulings requiring that suppliers of cellular and other forms of wireless telecommunications services capable of accessing the 911 emergency telephone number provide certain enhancements to their services when requested by a communications district. Provides that these enhancements will automatically provide the number and location of the wireless caller to the communications district when a caller accesses 911.

Proposed law removes present law and instead provides that the FCC has outlined a plan that will require the public safety community to field a new generation of 911 emergency call services which will allow the use of additional and widely used digital media to contact Public Safety Answering Points (PSAPs). Provides that Next Generation 911 (NG911) will permit the public use of text messages, data, videos, as well as voice to transmit emergency information to the servicing PSAP and will allow this data to be further shared with first responders for their use enroute to and at emergency scenes. Provides that specific technological enhancements must be made within each PSAP in order to receive and utilize this information from wireless devices.

Present law defines the term "CMRS" to mean commercial mobile radio service under provisions of federal law (Section 3(27) and 332(d) of the Telecommunications Act of 1996, 47 U.S.C. Section 151 et. seq., and the Omnibus Budget Reconciliation Act of 1993, Pub L. 103-66). Provides that the term includes "wireless" and includes service provided by any wireless real time two-way voice communication device, including a radio-telephone communications line used in cellular telephone service, a personal communication service, specialized mobile radio service, or a network radio access line.

Proposed law removes present law and provides that such term shall be as defined by provisions of federal law (47 C.F.R. 20.3). Provides that the term includes any wireless service capable of accessing 911 through the use of voice, text, video, image, data, or any other means.

Present law defines the term "exchange access facilities" to mean all lines, provided by the service supplier for the provision of local exchange service, as defined in existing general subscriber services tariffs.

Proposed law retains present law and additionally provides that the term shall include all lines as defined in federal law (47 C.F.R. 9.3) interconnected Voice over Internet Protocol (VoIP).

Present law defines the term "FCC" to mean the order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on June 12, 1996, and released on July 26, 1996. Defines the term "wireless E911 service" to mean E911 service that provides automatic number identification of wireless subscribers as required by the FCC order.

Proposed law removes present law.

Present law authorizes each communications district to levy a service charge on CMRS. Provides that such service charge:

- (1) Shall be levied on all CMRS service which enables a user to access 911.
- (2) Shall not exceed 85 cents per month per connection or the rate the district levies or is authorized to levy on July 9, 1999, whichever is higher.

- (3) Shall be levied by resolution or ordinance, provided however, that if the district levies an emergency telephone service charge, tax, charge, surcharge or fee on July 9, 1999, then it is not required to adopt a new ordinance or resolution except to change the rate thereof.

Proposed law provides that the service charge shall not exceed \$1.25 per month per connection or the rate the district levies or is authorized to levy on Aug. 1, 2016, whichever is higher. Provides that if the district levies an emergency telephone service charge, tax, charge, surcharge or fee on Aug. 1, 2016, then it is not required to adopt a new ordinance or resolution except to change the rate thereof. Proposed law otherwise retains present law.

Present law provides that any person or entity otherwise exempt from taxation shall be exempt from the service charge. Proposed law removes present law.

Present law, relative to districts with a population of not less than 20,000, requires that the proceeds of the service charge collected after July 9, 1999, be used for the payment of service suppliers' and district's costs associated with enhancements required by federal law and for any lawful purpose of the district. Provides for cooperative endeavors between the district and service suppliers for paying such costs. Requires that once the district determines that funds are sufficient for implementation of enhancements by the district and all suppliers in the district, the district shall request that the suppliers make the enhancements. Requires that all enhancements be made within one year of the initial levy of the service charge in a district having a population of 30,000 or more and within 18 months in a district with a population of between 20,000 and 30,000. Provides that if a district required to make the enhancements fails to begin making such enhancements within the required time after requesting that the service suppliers collect the service charge, the service suppliers shall cease collecting the charge. Relative to districts with a population of less than 20,000 provides that the proceeds may be used for any lawful purpose of the district.

Proposed law removes present law.

Present law provides that districts are subject to financial audit pursuant to present law. Requires that each district submit an annual report to the legislative auditor, which report shall include information on the revenues derived from the service charge and the uses thereof. Requires that such report also include the status of implementation of wireless E911 service.

Proposed law removes present law except that districts will continue to be subject to audit pursuant to present law.

Present law requires that each "wireless" service supplier establish a mechanism to permit a district to have full-time access to customer data needed to assist in emergency response. Prohibits any other use of such information and requires that it remain confidential and not be subject to present law relative to disclosure of public records. Further requires that "wireless" suppliers adhere to standards as may be established by the National Emergency Number Association. Requires that until promulgation of such standards, a "wireless" supplier shall adhere to common industry standards.

Proposed law retains present law except removes reference to the term "wireless".

Proposed law requires all revenues collected from the assessment of 911 surcharge fees to be used for the sole purpose of providing 911 emergency response communications services and operations. Prohibits diversion of the revenues for use by any other entity or for any other purpose other than those outlined in the present law and proposed law.

(Amends R.S. 33:9106(A)(3) and 9109; Adds R.S. 33:9109.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Add proposed law to require all revenues collected from the assessment of 911 surcharge fees to be used for the sole purpose of providing 911 emergency response communications services and operations. Prohibits diversion of the revenues for use by any other entity or for any other purpose other than those outlined in the present law.