

LEGISLATIVE BILL 585

Approved by the Governor April 17, 2001

Introduced by Engel, 17; Bromm, 23; Connealy, 16; Kremer, 34; D. Pederson, 42; Schrock, 38

AN ACT relating to telecommunications; to amend section 86-804, Reissue Revised Statutes of Nebraska; to provide for enhanced wireless 911 service; to establish a surcharge on wireless service subscribers; to define terms; to provide powers and duties; to create an advisory board; to create a fund; to provide for confidentiality of certain records; to provide immunity as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 14 of this act:

(1) Advisory board means the Enhanced Wireless 911 Advisory Board;

(2) Automatic number identification means a feature by which a person calling a public safety answering point has his or her ten-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer units;

(3) Commission means the Public Service Commission;

(4) E-911 service has the same meaning as in subdivision (3) of section 86-1002;

(5) Enhanced wireless 911 service means a telephone exchange communications service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification, and wireless automatic location identification information to a public safety answering point which has capability of providing selective routing, selective transfer, fixed transfer, automatic number identification, and wireless automatic location identification;

(6) Governing body has the same meaning as in subdivision (4) of section 86-1002;

(7) 911 service has the same meaning as in subdivision (6) of section 86-1002;

(8) Pseudo-automatic number identification means a feature by which automatic number identification is provided to a public safety answering point of the ten-digit telephone number of the specific cell site or cell site sector from which a wireless call originated;

(9) Public safety agency has the same meaning as in subdivision (8) of section 86-1002;

(10) Public safety answering point has the same meaning as in subdivision (9) of section 86-1002;

(11) Ten-digit telephone number means a telephone number assigned to a particular telephone account prefaced by the area code;

(12) Wireless automatic location identification means a feature by which information is provided to a public safety answering point identifying the location, the latitude and longitude within the parameters established by the Federal Communication Commission, of a wireless unit originating a call to a public safety answering point; and

(13) Wireless carrier means (a) any carrier of commercial mobile radio service as defined in 47 U.S.C. 153(27) and 332(d), as such sections existed on the effective date of this act, and 47 C.F.R. 20.18, as such section existed on the effective date of this act, or (b) any cellular licensee, personal communications licensee, and specialized mobile radio carrier defined in 47 C.F.R. 20.18, as such section existed on the effective date of this act.

Sec. 2. Commencing July 1, 2001, each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge of not more than fifty cents per month per access line. The wireless carrier shall add the surcharge to each subscriber's billing statement. The wireless carrier shall not be liable for any surcharge not paid by a subscriber and shall not be obligated to take legal action to collect the surcharge. The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as "Enhanced Wireless 911 Surcharge". The commission may take any legal action as it deems necessary to collect unpaid surcharges in its own name, as a real party in interest, or by assigning such debt for collection to a third party.

Sec. 3. The commission shall hold a public hearing annually to determine the amount of revenue necessary to carry out the provisions of

sections 1 to 14 of this act. After the hearing, the commission shall determine the amount of money to be deposited in the Enhanced Wireless 911 Fund for the following year and shall set the surcharge subject to the limitation in section 2 of this act.

Sec. 4. Each wireless carrier shall remit monthly to the commission the amount of surcharge collected together with any forms required by the commission no later than sixty days after the last day of the month. The wireless carrier shall report the number of wireless lines served and the number of wireless lines from which it has collected surcharge revenue. The wireless carrier shall maintain surcharge and remittance records for a period of two years after the date of the subscriber's billing statement. The commission shall remit the funds to the State Treasurer for credit to the Enhanced Wireless 911 Fund. The commission may at its own expense require an audit of any wireless carrier's books and records concerning the collection and remittance of the surcharge pursuant to sections 1 to 14 of this act.

Sec. 5. Each public safety answering point shall report to the commission annually (1) the name and location of the public safety answering point and (2) whether wireless 911 service or enhanced wireless 911 service is provided at that public safety answering point. The commission shall compile and place the information required in this section into its annual telecommunications report to the Legislature.

Sec. 6. The Enhanced Wireless 911 Advisory Board is created to advise the commission concerning the implementation, development, administration, coordination, evaluation, and maintenance of enhanced wireless 911 service. The advisory board shall be composed of ten individuals appointed by the Governor, including:

- (1) One sheriff;
- (2) Two county officials or employees;
- (3) Two municipal officials or employees;
- (4) Two representatives from the state's wireless telecommunications industry;
- (5) One manager of a public safety answering point not employed by a sheriff;
- (6) One representative of the state's local exchange telecommunications service industry;
- (7) One commissioner from the Public Service Commission or his or her designee who shall serve as an ex officio member; and
- (8) The Director of Administrative Services or his or her designee who shall serve as an ex officio member.

For members of the initial board as described in subdivisions (1) through (6) of this section, three members shall be appointed for a term of one year, three members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. Each succeeding member of the board shall be appointed for a term of three years. The board shall meet as often as necessary to carry out its duties. Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 7. The advisory board shall make recommendations to the commission regarding the implementation of sections 1 to 14 of this act, including:

- (1) The allocation of funds from the Enhanced Wireless 911 Fund as specified in section 10 of this act;
- (2) Rules and regulations necessary to carry out the provisions of sections 1 to 14 of this act;
- (3) Any adjustments in the surcharge amount to recommend to the Legislature; and
- (4) The resolution of any disputes between public safety answering points and wireless carriers.

The commission may approve and implement any recommendations of the advisory board.

Sec. 8. The Enhanced Wireless 911 Fund is created. The fund shall consist of the surcharges credited to the fund, any money appropriated by the Legislature, any federal funds received for wireless emergency communication, and any other funds designated for credit to the fund. Money in the fund shall be used for the costs of administering the fund and the purposes specified in section 10 of this act unless otherwise directed by federal law with respect to any federal funds. The costs of administering the fund shall be kept to a minimum. Until July 1, 2004, the money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment

Act.

Sec. 9. A public safety answering point may enter into a service agreement with one or more wireless carriers. The commission shall determine the most efficient method for providing enhanced wireless 911 service.

Sec. 10. (1) The commission shall, in consultation with the advisory board:

(a) Determine the costs to implement wireless automatic location identification;

(b) Determine the level of funding needed to trigger disbursements pursuant to sections 1 to 14 of this act;

(c) Determine the percentage of the fund to be allocated to each funding purpose, including the percentage that shall be designated for funding 911 service under subdivision (2)(c) of this section; and

(d) Determine how the funds distributed under subdivisions (2)(a) and (2)(c) of this section are to be allocated among the wireless carriers and the public safety answering points.

(2) The commission shall, in consultation with the advisory board, establish eligibility standards and criteria for fund disbursement applications and standards and criteria concerning the level of fund disbursement for each application. In establishing such criteria and standards, the following purposes shall be eligible for funding:

(a) Costs incurred or to be incurred by wireless carriers to implement enhanced wireless 911 service pursuant to a service agreement with a public safety answering point or pursuant to a request for service from a public safety answering point. Such costs shall include, but not be limited to, the portion of the costs for new equipment used for providing enhanced wireless 911 service, costs to lease another vendor's equipment or services to provide enhanced wireless 911 service, costs to create or maintain any database or database elements used solely for enhanced wireless 911 service, and other costs of establishing enhanced wireless 911 service. The portion of the costs of equipment or services used in the wireless carrier's main infrastructure resulting in revenue to the wireless carrier is not eligible for funding;

(b) Costs incurred or to be incurred by public safety answering points to implement enhanced wireless 911 service, including, but not limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment;

(c) Costs incurred or to be incurred by public safety answering points for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service; and

(d) Expenses incurred by members of the advisory board while performing duties required by sections 1 to 14 of this act.

(3) The commission shall have any powers necessary to carry out the intent and purposes of sections 1 to 14 of this act.

Sec. 11. (1) A public safety answering point and wireless carrier shall be compensated for costs determined by the commission to be eligible for funding. A public safety answering point or wireless carrier may apply for disbursement from the Enhanced Wireless 911 Fund by submitting a written application to the commission. The commission shall receive and review applications, including supporting documentation. The commission shall notify each applicant as to the commission's approval or disapproval of the application.

(2) Each entity that receives disbursements from the fund shall make a full accounting of the money in a manner and form prescribed by the commission.

Sec. 12. Information provided by wireless carriers to the advisory board or the commission pursuant to sections 1 to 14 of this act may be treated as records which may be withheld from the public upon request of the party submitting such records if the information qualifies under subdivision (3) of section 84-712.05.

Sec. 13. The commission, governing bodies, and public safety agencies may provide enhanced wireless 911 service. In contracting for and providing such service, except for failure to use reasonable care or for intentional acts, the commission, each governing body, each public safety agency, each wireless carrier, and their employees and agents shall be immune from liability or the payment of damages in the performance of installing, maintaining, or providing enhanced wireless 911 service.

Sec. 14. The commission, in consultation with the advisory board, shall adopt and promulgate rules and regulations to carry out the provisions of sections 1 to 14 of this act.

Sec. 15. Section 86-804, Reissue Revised Statutes of Nebraska, is amended to read:

86-804. The commission shall provide the Legislature with an annual report on or before September 30 of each year on the status of the Nebraska telecommunications industry. The report shall describe: (1) The quality of telecommunications services being provided to the citizens of Nebraska; (2) the availability of diverse and affordable telecommunications services to all of the people of Nebraska; (3) the level of rates of local exchange companies and interexchange telecommunications companies; ~~and~~ (4) the level of the Nebraska Telecommunications Universal Service Fund as determined by section 86-1409; (5) the availability and location of 911 service and E-911 service as required by section 86-1005; and (6) the availability and location of wireless 911 service or enhanced wireless 911 service as required by section 5 of this act. The report also shall address the question of the need for further legislation to achieve the purposes of sections 86-801 to 86-811.

Sec. 16. Original section 86-804, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 17. Since an emergency exists, this act takes effect when passed and approved according to law.