

## LEGISLATIVE BILL 1222

Approved by the Governor April 13, 2006

Introduced by Transportation and Telecommunications Committee: Baker, 44,  
Chairperson; Aguilar, 35; Brown, 6; Hudkins, 21; Stuthman,  
22

AN ACT relating to telecommunications; to amend sections 86-442, 86-443, 86-456, 86-457, 86-459, 86-463, 86-465, and 86-466, Revised Statutes Cumulative Supplement, 2004, and section 86-420, Revised Statutes Supplement, 2005; to provide duties for counties under the Emergency Telephone Communications Systems Act; to define and redefine terms under the Enhanced Wireless 911 Services Act; to adopt and change provisions relating to surcharges and public safety answering points; to provide duties for the Public Service Commission; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 86-420, Revised Statutes Supplement, 2005, is amended to read:

86-420 Sections 86-420 to 86-441.01 and section 2 of this act shall be known and may be cited as the Emergency Telephone Communications Systems Act.

Sec. 2. Each county shall implement enhanced-911 service by July 1, 2010.

Sec. 3. Section 86-442, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-442 Sections 86-442 to 86-470 and sections 5, 6, and 13 of this act shall be known and may be cited as the Enhanced Wireless 911 Services Act.

Sec. 4. Section 86-443, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-443 For purposes of the Enhanced Wireless 911 Services Act, the definitions found in sections 86-444 to 86-456 and sections 5 and 6 of this act apply.

Sec. 5. Active, prepaid account means an account which has a positive balance at the end of the monthly billing period or calendar month or has a positive balance greater than or equal to the surcharge amount, as determined by the wireless carrier.

Sec. 6. Prepaid customer means a wireless carrier customer who pays in full prospectively for the service and is assigned a Nebraska telephone number or a wireless carrier customer whose primary place of use is in Nebraska.

Sec. 7. Section 86-456, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-456 Wireless carrier means (1) any carrier of ~~commercial mobile radio service as referenced in 47 U.S.C. 153(27) and 332(d), as such sections existed on January 1, 2002, and 47 C.F.R. 20.18, as such regulation existed on January 1, 2002, or~~ (2) any cellular licensee, personal communications licensee, and specialized mobile radio carrier defined in 47 C.F.R. 20.18, as such regulation existed on January 1, 2002 mobile service as referenced in 47 U.S.C. 153(27), as such section existed on January 1, 2006, (2) any carrier of commercial mobile service as referenced in 47 U.S.C. 332(d)(1), as such section existed on January 1, 2006, (3) any carrier of commercial mobile radio service as referenced in 47 C.F.R. 20.9, as such regulation existed on January 1, 2006, or (4) any cellular radiotelephone service, licensees of a personal communications service, and specialized mobile radio services as referenced in 47 C.F.R. 20.9, as such regulation existed on January 1, 2006.

Sec. 8. Section 86-457, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-457 (1) Each wireless carrier who has a subscriber with a billing address in a customer, other than a prepaid customer or a customer in a county containing a city of the metropolitan class, whose primary place of use is in Nebraska, shall collect a surcharge of not more than fifty cents up to seventy cents per month per access line. Each wireless carrier who has a customer in a county containing a city of the metropolitan class 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 customer's billing statement. The wireless carrier is not liable for any surcharge not paid by a subscriber customer and is not obligated to take legal action to collect the surcharge. The surcharge shall appear as a separate line-item charge on the subscriber's

customer's billing statement and shall be labeled as "Enhanced Wireless 911 Surcharge" or a reasonable abbreviation of such phrase. 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.

(2) If a wireless carrier resells its services through other entities, each reseller shall collect the surcharge from its subscribers and shall remit the surcharge in accordance with section 86-459.

(3) Beginning on July 1, 2007, each wireless carrier who has a prepaid customer shall remit a surcharge from each prepaid customer in the amount established in subsection (1) of this section. A wireless carrier may collect such surcharge from prepaid customers using one of the following methods:

(a) The wireless carrier shall divide the total earned prepaid wireless telephone revenue received by the wireless carrier within the monthly reporting period by fifty dollars and multiply the quotient by the surcharge amount;

(b) The wireless carrier shall collect on a monthly basis the surcharge from each customer's active, prepaid account. A customer with two or more active, prepaid accounts shall be assessed a separate surcharge for each active, prepaid account; or

(c) A wireless carrier shall remit the surcharge upon the activation of the active, prepaid account and upon each replenishment of additional minutes purchased by the prepaid customer.

Sec. 9. Section 86-459, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-459 (1) 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 commission shall remit the funds to the State Treasurer for credit to the Enhanced Wireless 911 Fund.

(2) As the commission may require, each The wireless carrier shall report to the commission on a quarterly basis the following information: (a) The the number of wireless lines, including prepaid customers, served and by county; (b) the number of wireless lines, including active, prepaid accounts, from which it has collected surcharge revenue by county; (c) the number of wireless towers by county; and (d) the current implementation status of enhanced wireless 911 service in each county served by that wireless carrier.

(3) 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 remittance to the 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 the Enhanced Wireless 911 Services Act.

(4) Each wireless carrier shall comply with all commission rules and regulations regarding enhanced wireless 911 service.

(5) Each wireless carrier shall comply with this section regardless of whether the wireless carrier receives reimbursement from the fund. Wireless carriers failing to comply with this section may be administratively fined by the commission pursuant to section 75-156.

Sec. 10. Section 86-463, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-463 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 86-465 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~~ 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. 11. Section 86-465, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-465 (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 the Enhanced Wireless 911 Services 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; and -

(e) Establish a mechanism for determining the level of funding available to each public safety answering point and wireless carrier for costs determined to be eligible by the commission under subsection (2) of this section.

(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~~ may 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~~ may 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 data base or data base 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~~ may include, but not be 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 the act.

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

Sec. 12. Section 86-466, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-466 (1) A public safety answering point and wireless carrier ~~shall~~ may be compensated for costs determined by the commission to be eligible for funding. The level of funding available to each public safety answering point and wireless carrier for eligible cost compensation may be limited based upon the mechanism established by the commission pursuant to section 86-465. The commission is not required to provide compensation for costs to more than one public safety answering point in any county. 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. 13. If any county does not have enhanced wireless 911 service, the commission may designate a public safety answering point that has enhanced wireless 911 service to receive wireless 911 service calls and directly dispatch or relay calls to the appropriate emergency services provider until the county has implemented enhanced wireless 911 service.

Sec. 14. Original sections 86-442, 86-443, 86-456, 86-457, 86-459, 86-463, 86-465, and 86-466, Revised Statutes Cumulative Supplement, 2004, and section 86-420, Revised Statutes Supplement, 2005, are repealed.

Sec. 15. Since an emergency exists, this act takes effect when passed and approved according to law.