

**FIRST ENGROSSMENT
with House Amendments**Fifty-sixth
Legislative Assembly
of North Dakota**ENGROSSED SENATE BILL NO. 2307**

Introduced by

Senators Krebsbach, Heitkamp, Kringstad

Representatives Clark, Dorso, Kroeber

1 A BILL for an Act to create and enact sections 57-40.6-02.1 and 57-40.6-02.2 of the North
2 Dakota Century Code, relating to a wireless 911 service fee and service fund; to amend and
3 reenact sections 57-40.6-01, 57-40.6-06, 57-40.6-07, and 57-40.6-08 of the North Dakota
4 Century Code, relating to wireless 911 service fees, definitions, and communications; to
5 provide for a legislative council study; and to provide continuing appropriations.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-40.6-01. Definitions.** In this chapter, unless the context or subject matter otherwise
10 requires:

- 11 1. "Commercial mobile radio service provider" means any provider of wireless
12 telephone service or any communications service capable of accessing a public
13 safety answering point by dialing the digits 9-1-1.
- 14 2. "Emergency services communication system" means a statewide, countywide, or
15 citywide radio system, land lines communication network, or emergency 911
16 telephone system, which provides rapid public access for coordinated dispatching
17 of services, personnel, equipment, and facilities for law enforcement, fire, medical,
18 or other emergency services.
- 19 3. "Enhanced 911 wireless service" has the meaning provided by the federal
20 communications commission under a two-phase implementation of a wireless
21 enhanced 911 technology. Phase I provides for a commercial mobile radio service
22 subscriber's telephone number and the location of the cell site transmitting the call
23 to those public safety answering points which request enhanced 911 wireless
24 service. Phase II requires commercial mobile radio service providers to be able to

- 1 identify the location of the commercial mobile radio service subscriber within one
2 hundred twenty-five meters at least sixty-seven percent of the time by October 1,
3 2001.
- 4 4. "Public safety answering point" means a communications facility operated on a
5 twenty-four-hour basis which first receives 911 calls from persons in a 911 service
6 area and which may, as appropriate, directly dispatch public safety services or
7 extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 8 ~~2.~~ 5. "Telephone access line" means the principal land-line or fixed-line access to the
9 telephone telecommunications company's switched network including an outward
10 dialed trunk or access register.
- 11 6. "Wireless telephone service" means commercial mobile radio service as defined
12 by 47 U.S.C. 332(d)(1) and includes any of the following:
- 13 a. Services commonly referred to as wireless.
- 14 b. Services provided by wireless real time two-way voice communication
15 devices, including radio-telephone communications used in:
- 16 (1) Cellular telephone services;
- 17 (2) Personal communications services; or
- 18 (3) The functional or competitive equivalent of a radio-telephone
19 communications line used in cellular telephone services, a personal
20 communications services, or a network radio access line.

21 **SECTION 2.** Section 57-40.6-02.1 of the North Dakota Century Code is created and
22 enacted as follows:

23 **Wireless 911 service fee, administration, collection.** A wireless 911 service fee is
24 imposed at a rate of twenty-five cents per month on each commercial mobile radio service
25 telephone service number provided within the state, except for those issued to the federal
26 government or agencies of the federal government. On or after January 1, 2003, the fee under
27 this section is subject to adjustment as provided in subsection 2 of section 57-40.6-02.2. The
28 tax commissioner shall administer this section and the fee imposed. The commissioner may
29 adopt rules not inconsistent with this chapter necessary for its administration, including
30 appropriate penalties and interest for late payment of the fee. The fee must be collected and
31 remitted as follows:

- 1 1. Each commercial mobile radio service provider shall add the wireless 911 service
2 fee to its subscribers' billings, separately stating the amount of the 911 wireless
3 service fee.
- 4 2. The commercial mobile radio service provider shall collect the 911 service fee and
5 may retain two percent of the fees collected by the provider for the purpose of
6 defraying the administrative costs of collecting and remitting the fees.
- 7 3. The commercial mobile radio service provider shall remit the balance of the
8 wireless service fees collected to the tax commissioner on or before the last day of
9 the month following the month the fees were collected.
- 10 4. The tax commissioner may retain one percent of the fees received for the services
11 rendered in connection with their collection and disbursement and transfer this
12 amount to the state treasurer at the end of each month for deposit in the state
13 general fund.
- 14 5. The tax commissioner shall transfer the balance of the fees received under this
15 section to the state treasurer at the end of each month for deposit in the wireless
16 911 service fund.

17 **SECTION 3.** Section 57-40.6-02.2 of the North Dakota Century Code is created and
18 enacted as follows:

19 **Wireless 911 service fund - Allocation - Continuing appropriation.** Revenues
20 deposited in the wireless 911 service fund are provided as a standing and continuing
21 appropriation to the state treasurer for allocation as follows:

- 22 1. Twenty-five percent of the revenues must be allocated monthly in equal shares to
23 political subdivisions operating a public safety answering point. Political
24 subdivisions served by the state public safety answering point must be treated as
25 one public safety answering point for the purposes of this subsection and must be
26 allocated a portion of the revenues based upon the proportion each of those
27 political subdivision's telephone access lines bears to the total number of
28 telephone access lines served by the state public safety answering point.
29 Revenue received under this subsection must be used by the political subdivision
30 for establishing and operating a 911 emergency services communication system
31 including enhanced 911 wireless service.

- 1 2. a. Seventy-five percent of the revenues must be allocated monthly to political
2 subdivisions responsible for the emergency services communication system
3 in each political subdivision based upon the proportion the population served
4 by the emergency services communication system bears to the total
5 population of the state served by emergency services communication
6 systems, as indicated by the most current census. However, these funds and
7 the interest earned must be held in escrow by the state treasurer for each
8 political subdivision until the governing board of the political subdivision
9 certifies that it has formally begun the implementation of phase I or phase II of
10 enhanced 911 wireless service as defined by the federal communications
11 commission. The certification must include documentation of agreements
12 between political subdivisions or public safety answering points and
13 commercial mobile service providers which authorize the purchase of
14 equipment or services necessary to implement enhanced 911 wireless
15 service. The funds must be designated for the implementation of enhanced
16 911 wireless service and allocated by political subdivisions on the basis of
17 actual costs incurred by public safety answering points and commercial
18 mobile radio service providers.
- 19 b. A political subdivision may not begin implementation of phase II of enhanced
20 911 wireless service, as defined by the federal communications commission,
21 before August 1, 2001. A political subdivision that has not certified by
22 January 1, 2003, that it has formally begun the implementation of phase II of
23 enhanced 911 wireless service as defined by the federal communications
24 commission is not entitled to allocation of the funds and interest held in
25 escrow for that political subdivision under subdivision a, except to the extent
26 those funds are necessary to complete phase I of enhanced 911 wireless
27 service. The state treasurer shall transfer funds and interest to which a
28 political subdivision is not entitled to a special rebate account for rebates to
29 commercial mobile radio service customers through their providers. Upon
30 application to the tax commissioner, each provider is entitled to a rebate of a
31 percentage of the funds in the special rebate account equal to the percentage

1 that provider paid of the total deposits into escrow under subdivision a and
2 the provider shall allocate the rebate pro rata among the provider's
3 customers. The funds and interest in the special rebate account are
4 appropriated as a standing and continuing appropriation to the tax
5 commissioner for rebates under this subdivision.

6 c. By February 1, 2003, the tax commissioner shall administratively adjust the
7 wireless 911 service fee under section 57-40.6-02.1. The fee must be
8 reduced to reflect elimination of funding under subdivision b for political
9 subdivisions that will not receive allocations of funds or interest because of
10 failure to implement phase II of enhanced 911 wireless service.

11 **SECTION 4. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-40.6-06. Data base.** ~~In 911 systems that have been approved by the state~~
14 ~~emergency service communication system advisory committee, any~~ Any telecommunications
15 company providing emergency 911 service shall provide upon request, on an annual basis,
16 current customer names, addresses, and telephone numbers to each public ~~service~~ safety
17 answering point within each 911 system ~~and shall update the information according to a~~
18 ~~schedule prescribed by the state 911 advisory committee's standards and guidelines.~~

19 Information provided under this section must be provided in accordance with the transactional
20 record disclosure requirements of the federal Electronics Communications Privacy Act of 1986,
21 18 U.S.C. 2703 (C)(1)(B)(iv).

22 **SECTION 5. AMENDMENT.** Section 57-40.6-07 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **57-40.6-07. Use of the furnished information.** Names, addresses, and telephone
25 numbers provided to a 911 public ~~service~~ safety answering point under section 57-40.6-06 are
26 private data and may be used only for verifying the location or identity, or both, for response
27 purposes only, of a person calling a 911 answering point for emergency help. The information
28 furnished may not be used or disclosed by the public ~~service~~ safety answering point or its
29 agents or employees for any other purpose except those specifically required by state law or
30 under a court order issued for good cause shown after notice to the submitting
31 telecommunications company or commercial mobile radio service provider, or upon written

1 consent granted by the submitting telecommunications company or commercial mobile radio
2 service provider.

3 **SECTION 6. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-40.6-08. Emergency services communication system or emergency**
6 **instructions - Liability.**

- 7 1. A public agency, public safety agency, commercial mobile radio service provider,
8 or local exchange telecommunications company that provides access to an
9 emergency services communication system ~~at or below cost,~~ or any officer, agent,
10 subcontractor, or employee of any public agency, public safety agency,
11 commercial mobile radio service provider, or local exchange telecommunications
12 company, is not liable for any civil damages as a result of any act or omission
13 except willful and wanton misconduct or gross negligence in connection with
14 developing, adopting, operating, or implementing any plan or system as provided
15 under this chapter.
- 16 2. A person who gives emergency instructions through a an emergency services
17 communication system as provided under this chapter, to persons rendering
18 services in an emergency at another location, or any person following such
19 instructions in rendering such services, is not liable for any civil damages as a
20 result of issuing or following the instructions, unless issuing or following the
21 instructions constitutes willful and wanton misconduct or gross negligence.
- 22 3. This section does not waive, limit, or modify any existing immunity or other defense
23 of the state or any political subdivision, or any of its agencies, departments,
24 commissions, boards, officers, or employees, nor does it create any claim for relief
25 against any of these entities.
- 26 4. A public agency, public safety agency, commercial mobile radio service provider,
27 or local exchange telecommunications company that provides access to an
28 emergency services communications system or any officer, agent, subcontractor,
29 or employee of any public agency, public safety agency, commercial mobile radio
30 service provider, or local exchange telecommunications company and its data
31 base vendor is not liable for any civil damages resulting from the release of a

1 wireless customer's telephone number or other subscriber information provided to
2 any public safety answering point.

3 5. All proprietary information of commercial mobile radio service providers, including
4 a commercial mobile radio service provider's customer lists and information
5 concerning a commercial mobile radio service provider's actual or estimated costs
6 and revenues, submitted to a public agency, public safety agency, political
7 subdivision, or state agency may be released or published in aggregate amounts
8 that do not identify or allow identification of number of subscribers, costs, or
9 revenues of an individual commercial mobile radio service provider.

10 **SECTION 7. LEGISLATIVE COUNCIL 911 SERVICE STUDY.** The legislative council
11 shall study the current public safety answering points and systems for their capability to
12 adequately administer systems, consider the feasibility and advisability of consolidating
13 systems for the purposes of more efficiently administering systems and utilizing available funds,
14 and review the technology under development or deployed to satisfy the requirements of the
15 federal mandate for wireless enhanced 911 service and how such service could be integrated
16 into the existing 911 system. The legislative council shall report its findings and
17 recommendations, with any legislation necessary to implement the recommendations, to the
18 fifty-seventh legislative assembly.