

SENATE BILL NO. 2353

Introduced by

Senators Kringstad, Krauter

1 A BILL for an Act to create and enact three new sections to chapter 57-40.6 and a new
2 subsection to section 57-40.6-08 of the North Dakota Century Code, relating to a wireless 911
3 service fee, liability, and an emergency services communication system advisory committee for
4 911; to amend and reenact sections 57-40.6-01, 57-40.6-05, and 57-40.6-06 of the North
5 Dakota Century Code, relating to wireless 911 telephone service; and to provide a continuing
6 appropriation.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

- 12 1. "Emergency services communication system" means a statewide, countywide, or
13 citywide radio system, land lines communication network, or emergency 911
14 telephone system, which provides rapid public access for coordinated dispatching
15 of services, personnel, equipment, and facilities for law enforcement, fire, medical,
16 or other emergency services.
- 17 2. "Telephone access line" means the principal fixed land line access to the
18 telephone company's switched network including an outward dialed trunk or
19 access register.
- 20 3. "Wireless telephone service" means public telephone service provided for two-way
21 voice or data communications which is transmitted independent of switched local
22 exchange access telephone service and which may be transmitted, in part, by
23 cable or wire as part of a larger telephone cable system. The term includes cellular
24 telephone service and any resellers of the service, personal communication

1 service, and specialized mobile radio service. The term does not include any
2 service that cannot connect a person to an established public safety answering
3 point under the 911 system by dialing the digits 9-1-1.

4 4. "911 service carrier" means any provider of wireless telephone service.

5 **SECTION 2.** A new section to chapter 57-40.6 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Emergency system - Wireless 911 service fee - Continuing appropriation.** A
8 subscriber shall pay a wireless 911 service fee, per device, to the 911 service carrier. This fee
9 must be the statewide land line weighted average rate. Weighting must be based on population
10 so as to provide a true and reflective average of the land line 911 tax. The state treasurer shall
11 complete an annual fiscal year review of the fee and adjust the fee if necessary. Any
12 adjustment must be communicated to wireless providers at least ninety days before
13 implementation. The 911 service carrier shall add the wireless 911 service fee to all current
14 bills for wireless telephone service in this state. The 911 service carrier shall collect the
15 wireless 911 service fee and shall remit the proceeds to the state treasurer on a monthly basis.
16 The state treasurer shall deposit the funds in a special 911 fund.

17 **SECTION 3.** A new section to chapter 57-40.6 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Special 911 fund - Continuing appropriation - Distribution.** All funds deposited in
20 the special 911 fund are appropriated on a continuing basis to the state treasurer for quarterly
21 distribution as follows:

- 22 a. Until July 1, 2003, fifteen percent to the 911 service carriers for use in
23 upgrading to meet federal communications commission requirements to
24 provide public safety answering points with a 911 callback number, and
25 location identification, and to cover the cost of billing, collecting, and remitting
26 the 911 service fee.
- 27 b. Until July 1, 2003, ten percent to state radio communications to help defray
28 the costs of 911 service.
- 29 c. Until July 1, 2003, seventy-five percent to the counties, based upon
30 population.

1 d. After June 30, 2003, five percent to state radio communications for
2 administrative purposes.

3 e. After June 30, 2003, ninety-five percent to the counties, based on population.

4 **SECTION 4. AMENDMENT.** Section 57-40.6-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-40.6-05. Restriction on use of tax or service fee proceeds.** The county may not
7 use the proceeds of the tax imposed under section 57-40.6-02 or the 911 service fee imposed
8 under section 2 of this Act for any purpose other than establishing or operating the emergency
9 services communication system.

10 **SECTION 5. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-40.6-06. Data base.** In 911 systems that have been approved by the state
13 emergency ~~service~~ services communication system advisory committee, any
14 telecommunications company or 911 service carrier providing emergency 911 service shall
15 provide, on an annual basis, current customer names, addresses, and telephone numbers to
16 each public service answering point within each 911 system and shall update the information
17 according to a schedule prescribed by the state 911 advisory committee's standards and
18 guidelines. Information provided under this section must be provided in accordance with the
19 transactional record disclosure requirements of the federal Electronics Communications Privacy
20 Act of 1986, 18 U.S.C. 2703 (C)(1)(B)(iv).

21 **SECTION 6.** A new subsection to section 57-40.6-08 of the North Dakota Century Code
22 is created and enacted as follows:

23 A local exchange provider, emergency service provider, or 911 service carrier, or
24 employee or agent of these providers or carriers, is not liable to any person for any
25 infringement or invasion of the right of privacy of any person caused or claimed to
26 have been caused, directly or indirectly, by the installation, operation, failure to
27 operate, maintenance, removal, presence, condition, occasion, or use of an
28 emergency service feature, automatic number identification service, or automatic
29 location identification service, and the equipment associated with these services, or
30 by any service furnished by any provider in connection with these services,
31 including the identification of the telephone number, address or name associated

1 with the telephone used by the party accessing 911 service, and automatic number
2 identification service or automatic location identification service, and which arises
3 out of the negligence or other wrongful act of the provider, the customer, the
4 governing body, service users, agencies, or municipalities, or their employees or
5 agents. A provider or its employees and agents are not liable for any damages in a
6 claim for relief for injuries, death, or loss to person or property incurred as a result
7 of any act or omission of the provider, employee, or agent, in connection with
8 developing, adopting, implementing, maintaining, enhancing, or operating an
9 emergency telephone service, except for damages or injury intentionally caused by
10 or resulting from gross negligence of the provider or person.

11 **SECTION 7.** A new section to chapter 57-40.6 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Emergency services communication system advisory committee - Standards and**
14 **guidelines - Report.**

- 15 1. The governor shall appoint a ten-member emergency services communication
16 system advisory committee for 911. The governor shall include on the advisory
17 committee one representative from the North Dakota league of cities, one
18 representative from the North Dakota association of counties, one representative
19 from the North Dakota peace officers association, one representative from the
20 North Dakota firefighters association, one representative from the North Dakota
21 911 association, one representative from the North Dakota emergency medical
22 service association, two members of the North Dakota house of representatives,
23 and two members of the North Dakota senate. Members' terms are for three
24 years, subject to reappointment, beginning with staggered terms as determined by
25 the governor. The entity represented is responsible for the expenses of the
26 member representing that entity. The legislative council is responsible for paying
27 the expenses of members of the legislative assembly. The legislative council shall
28 provide staff services to the committee. The advisory committee shall name a
29 chairman and vice chairman from its membership.
- 30 2. The advisory committee shall adopt rules under chapter 28-32 for the development
31 and operation of all emergency 911 systems. The rules must establish the level of

- 1 emergency 911 system services to be provided and the uniformity and
2 compatibility of emergency 911 systems in the state.
3 3. Each biennium the advisory committee shall submit a report of its work to the
4 governor and the legislative assembly.