

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1536

By: Thomsen

4
5
6 AS INTRODUCED

7 An Act relating to telecommunications; amending 17
8 O.S. 2011, Section 139.109, as last amended by
9 Section 2, Chapter 182, O.S.L. 2014 (17 O.S. Supp.
10 2014, Section 139.109), which relates to the Oklahoma
11 E911 Emergency Service Fund; clarifying requirement
12 for certain competitive bidding; making price a
13 primary factor for evaluation; listing other relevant
14 factors; requiring competitive bidding for
15 telemedicine services for certain entities; stating
16 meaning of certain terms; requiring applicants to
17 develop a weighted evaluation; making price a primary
18 factor; listing other factors; allowing exemption
19 from competitive bidding for telemedicine
20 reimbursement; listing conditions for exemption;
21 specifying criteria for determining public interest
22 for certain funding for certain entities; requiring
23 telecommunications carriers to give certain notice
24 and provide certain documents; and declaring an
emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.109, as
last amended by Section 2, Chapter 182, O.S.L. 2014 (17 O.S. Supp.
2014, Section 139.109), is amended to read as follows:

Section 139.109 A. There is hereby created within the
Corporation Commission the "Oklahoma E911 Emergency Service Fund".

1 Beginning September 1, 1997, each local exchange telecommunications
2 service provider shall annually contribute fifty cents (\$0.50) per
3 retail local exchange access line to the Oklahoma E911 Emergency
4 Service Fund until the total amount contributed by all providers to
5 the Fund equals Five Million Dollars (\$5,000,000.00). The
6 contribution amount for each service provider shall be based upon
7 the number of retail local exchange access lines of that service
8 provider in service on July 1 of each applicable year. The Oklahoma
9 E911 Emergency Service Fund shall be administered by the Corporation
10 Commission and used to defray the cost of purchasing and installing
11 equipment for enhanced 911 emergency systems across the state.
12 Preference for funding shall be given first to those systems
13 established in areas of the state which do not have access to 911
14 emergency service before July 1, 1997, and second to areas of the
15 state which do not have access to enhanced 911 emergency services.
16 Funding from the E911 Emergency Service Fund shall not be used for
17 ongoing operating costs of any emergency telephone service system.
18 To qualify for funding, the emergency telephone service system shall
19 have been or be in the process of being approved as provided for in
20 the Nine-One-One Emergency Number Act. Local exchange
21 telecommunications service providers serving fifteen percent (15%)
22 or more of the access lines in the state may not apply for recovery
23 of the contributions made to the E911 Emergency Service Fund from
24 the Oklahoma Universal Service Fund created in Section 139.106 of

1 this title. All monies in the Oklahoma E911 Emergency Service Fund
2 shall be expended only for the purposes set forth in this
3 subsection.

4 B. There is hereby created within the Oklahoma Department of
5 Career and Technology Education the "Oklahoma Telecommunications
6 Technology Training Fund". Beginning September 1, 1997, each local
7 exchange telecommunications service provider shall annually
8 contribute seventy-five cents (\$0.75) per retail local exchange
9 access line to the Oklahoma Telecommunications Technology Training
10 Fund until the total amount contributed by all providers to the Fund
11 equals Seven Million Dollars (\$7,000,000.00). The contribution
12 amount for each service provider shall be based upon the number of
13 retail local exchange access lines of that service provider in
14 service on July 1 of each applicable year. The Oklahoma
15 Telecommunications Technology Training Fund shall be administered by
16 the Oklahoma Department of Career and Technology Education working
17 in conjunction with OneNet, and shall be used to provide statewide
18 training of teachers and school administrators in the most effective
19 use of telecommunications and distance learning technology for the
20 enhancement of education throughout the state. Local exchange
21 telecommunications service providers serving fifteen percent (15%)
22 or more of the access lines in the state may not apply for recovery
23 of the contributions made to the Oklahoma Telecommunications
24 Technology Training Fund from the Oklahoma Universal Service Fund

1 created in Section 139.106 of this title. All monies in the
2 Oklahoma Telecommunications Technology Training Fund shall be
3 expended only for the purposes set forth in this subsection.

4 C. The following services are hereby declared to be Special
5 Universal Services and such services shall be provided only after
6 funding for the Oklahoma Universal Service Fund is implemented as
7 set forth in Section 139.101 et seq. of this title:

8 1. Each not-for-profit hospital in the state shall, upon
9 written request, receive one incoming, toll-free phone number and up
10 to a total of five access lines, free of charge, to allow incoming,
11 toll-free calls from any location within the geographic area served
12 by the hospital;

13 2. Each not-for-profit hospital, county health department,
14 city-county health department, not-for-profit mental health and
15 substance abuse facility as defined in Section 139.102 of this title
16 and federally qualified health center in this state shall, upon
17 written request, receive, free of charge, one telecommunications
18 line or wireless connection sufficient for providing such
19 telemedicine, clinical and health consultation services as the
20 entity's telemedicine equipment and service applications require.
21 The telecommunications carrier shall be entitled to reimbursement
22 from the Oklahoma Universal Service Fund for providing the line or
23 connection. In no case, however, shall reimbursement from the fund
24

1 be made for an Internet subscriber fee or charges incurred as a
2 result of services accessed via the Internet;

3 3. Each public school building wherein classrooms are contained
4 and each public library in the state shall, upon written request,
5 receive one incoming, toll-free phone number and up to a total of
6 five access lines, free of charge, to allow incoming, toll-free
7 calls from any location within the geographic area served by the
8 school or the public library;

9 4. Each public school building wherein classrooms are contained
10 and each public library in the state shall, upon written request,
11 receive one access line, free of charge, with the ability to connect
12 to an Internet service provider at 1.5Mbps, in the most economically
13 efficient manner for the carrier, or an equivalent dollar credit to
14 be applied by the public school or public library toward similar
15 services provided by the same carrier, for the purpose of accessing
16 the Internet. In no case shall the Oklahoma Universal Service Fund
17 reimburse an entity for an Internet subscriber fee or charges
18 incurred as a result of services accessed via the Internet; and

19 5. Each county seat in the state shall, upon written request of
20 the board of county commissioners, receive one incoming, toll-free
21 phone number and up to a total of five access lines, free of charge,
22 to allow incoming, toll-free calls from any location within the
23 geographic area served by the county seat.

24

1 D. 1. As part of the request process, the Corporation
2 Commission shall require competitive bidding of services in which
3 the schools and libraries shall select the most cost-effective bid.
4 The price of the eligible products and services shall be the primary
5 factor in the evaluation. Other relevant evaluation factors may
6 include:

7 a. quality of service,

8 b. quality of technical support,

9 c. equipment cost,

10 d. installation cost,

11 e. human resource cost to school district,

12 f. interruption of network functionality,

13 g. qualifications of service provider, and

14 h. prior experience with service provider including past
15 performance.

16 2. Except in instances where the applicant is exempt from
17 competitive bidding, as part of the request process for telemedicine
18 funding by each not-for-profit hospital, county health department,
19 city-county health department, not-for-profit mental health and
20 substance abuse facility as defined in Section 139.102 of this title
21 and federally qualified health center in this state, the Corporation
22 Commission shall require competitive bidding of services in which
23 applicants providing telemedicine select the most cost-effective
24 service provider. For purposes of this section, the "most cost-

1 effective service provider" shall mean the method that costs the
2 least after consideration of the features, quality of transmission,
3 reliability and other factors relevant to choosing a method of
4 providing the required services. Applicants shall develop a
5 weighted evaluation that demonstrates how the applicant will choose
6 the bid that is most cost-effective prior to initiating competitive
7 bidding. Price shall be a primary factor, but shall not be the only
8 primary factor. A non-price factor may receive an equal weight to
9 price, but may not receive a greater weight than price. Other
10 factors considered in the bid evaluation may include:

- 11 a. quality of transmission,
- 12 b. reliability,
- 13 c. technical support,
- 14 d. previous experience with service provider,
- 15 e. rapid response for problems,
- 16 f. service provider to provide a single point of contact,
- 17 and
- 18 g. any other factors deemed necessary by the not-for-
- 19 profit hospital, county health department, city-county
- 20 health department, not-for-profit mental health and
- 21 substance abuse facility as defined in Section 139.102
- 22 of this title and federally qualified health center in
- 23 the state in order to provide telemedicine, clinical
- 24 and health consultation services.

1 3. Applicants for telemedicine reimbursement pursuant to this
2 section shall be exempt from competitive bidding requirements in
3 applying for Oklahoma Universal Service Funds only as follows:

- 4 a. an applicant that seeks support for Ten Thousand
5 Dollars (\$10,000.00) or less of total undiscounted
6 eligible expenses for a single year if the term of the
7 contract is one (1) year or less,
- 8 b. an applicant that is located in a geographic area in
9 which there is only one telecommunications carrier
10 available to bid,
- 11 c. an applicant that seeks support for services and
12 equipment purchased from a Master Service Agreement
13 (MSA) negotiated by federal, state, Tribal or local
14 government entities on behalf of such health care
15 providers and others,
- 16 d. an applicant purchases services under an evergreen
17 contract. For purposes of this subparagraph, a
18 "consortium of health care providers" is two or more
19 health care providers that choose to request support
20 as a single entity through available federal funds. A
21 contract entered into by a health care provider or
22 consortium of health care providers, as a result of
23 competitive bidding, may be deemed evergreen if it
24 meets all of the following requirements:

- 1 (1) is signed by the health care provider or
- 2 consortium lead entity,
- 3 (2) specifies the service type, bandwidth and
- 4 quantity,
- 5 (3) specifies the term of the contract,
- 6 (4) specifies the cost of services to be provided,
- 7 and
- 8 (5) includes the physical location or other
- 9 identifying information of the health care
- 10 provider sites purchasing from the contract, or

11 e. an eligible health care provider and consortium
12 exercising voluntary options to extend an evergreen
13 contract beyond its initial contract term if:

- 14 (1) the voluntary extension or extensions is
- 15 memorialized in the evergreen contract,
- 16 (2) the decision to extend the contract occurs before
- 17 the participant files its funding request for the
- 18 funding year when the contract would otherwise
- 19 expire, and
- 20 (3) the voluntary extension or extensions do not
- 21 exceed five (5) years in the aggregate.

22 E. To the extent Special Universal Services are purchased from
23 a telecommunications service provider by another carrier, the
24 Special Universal Services are for the exclusive use of the not-for-

1 profit hospital, county health department, city-county health
2 department, federally qualified health center, public school, public
3 library or county government. Under no circumstances shall the not-
4 for-profit hospital, county health department, city-county health
5 department, federally qualified health center, public school, public
6 library or county government sell, repackage or share Special
7 Universal Services with any other entity.

8 ~~E.~~ F. The Corporation Commission shall have authority to
9 investigate and modify or reject in whole or part a Special
10 Universal Services request under subsection C of this section if the
11 request does not meet the specified criteria, if the Corporation
12 Commission's investigation determines that the entity has not
13 provided sufficient justification for the requested services, or if
14 the Corporation Commission determines that granting the request is
15 not in the public interest.

16 For purposes of the administration of the Special Universal
17 Services, the determination of public interest considered by the
18 Corporation Commission shall mean the consideration of the public
19 interest in the provision of telecommunication services as detailed
20 in Section 101 et seq. of this title for the following entities:

- 21 1. Public school;
- 22 2. Public library;
- 23 3. County seat;
- 24 4. Not-for-profit hospital, for telemedicine funding;

1 5. County health department, for telemedicine funding;

2 6. City-county health department, for telemedicine funding;

3 7. Not-for-profit mental health and substance abuse facility as
4 defined in Section 139.102 of this title, for telemedicine funding;

5 and

6 8. Federally qualified health center in this state, for
7 telemedicine funding.

8 G. At the time of application for funding by a
9 telecommunications carrier to the Oklahoma Universal Service Fund,
10 notice shall be given by the telecommunications carrier to the
11 entity which is the applicant for Special Universal Services funds.

12 All filings, notices and any other document in the proceeding
13 requesting funding shall be provided by the telecommunications
14 carrier to the entity which is the applicant for Special Universal
15 Services funds.

16 SECTION 2. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20
21 55-1-5856 KB 01/21/15