

An Act

ENROLLED SENATE
BILL NO. 687

By: Weaver of the Senate

and

Humphrey and Ford of the
House

An Act relating to the Oklahoma 9-1-1 Management Authority; amending Sections 4, 6, 7 and 8, Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2020, Sections 2864, 2866, 2867 and 2868), which relate to powers and duties, collection and distribution of fees and use of funds; modifying requirements; directing establishment of certain rules; providing training program standards; requiring certain reporting; providing certain oversight of fees; and providing an effective date.

SUBJECT: Modifies the Oklahoma 9-1-1 Management Authority Act, modifying powers and duties and authorizing the escrow of certain funds upon certain conditions

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

SECTION 1. AMENDATORY Section 4, Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2020, Section 2864), is amended to read as follows:

Section 2864. The powers and duties of the Oklahoma 9-1-1 Management Authority created in Section ~~3 of this act~~ 2863 of this title shall be to:

1. Approve or disapprove the selection of the Oklahoma 9-1-1 Coordinator by majority vote of the members. The Authority shall direct the Oklahoma 9-1-1 Coordinator to administer grants approved

by the Authority pursuant to this section and perform other duties as it deems necessary to accomplish the requirements of the Oklahoma 9-1-1 Management Authority Act;

2. Prepare grant solicitations for funding for the purposes of assisting public agencies with funding for consolidation of facilities or services, deployment of Phase II technology or successor technology, development of next-generation 9-1-1 regional emergency service networks, and for other purposes it deems appropriate and necessary;

3. Work in conjunction with the Oklahoma Department of Emergency Management to create an annual budget for the Authority, which shall be approved by majority vote of the members;

4. Direct the Oklahoma Tax Commission to escrow all or any portion of funds collected pursuant to the Oklahoma 9-1-1 Management Authority Act attributable to a public agency, if the public agency fails to:

- a. submit or comply with master plans to deliver ~~Phase II~~ Next Generation 9-1-1 wireless locating (NG9-1-1) services as required by ~~this act~~ the Oklahoma 9-1-1 Management Authority Act and approved by the Authority. Local plans must align with the State's Master plan to deploy NG9-1-1,
- b. meet standards of the National Emergency Number Association (NENA) limited to call-taking and caller-location technology or comply with an improvement plan to meet such standards as directed by the Authority,
- c. submit annual reports or audits as required by ~~this act, or~~ the Oklahoma 9-1-1 Management Authority Act,
- d. provide connectivity and interoperability between state, regional and local next-generation systems, or
- e. comply with the requirements of ~~this act~~ the Oklahoma 9-1-1 Management Authority Act or procedures established by the Authority;

5. Establish and submit to the Tax Commission a list of eligible governing bodies entitled to receive 9-1-1 telephone fees and establish annual population figures for the purpose of distributing fees collected pursuant to Section ~~5 of this act~~ 2865 of this title, to be derived by dividing the population of each public agency's response area by the total population of the state using data from the latest available ~~Federal Decennial~~ Census estimates as of July 1 of each year;

6. Assist any public agency the Authority determines is performing below standards of the NENA, as limited by paragraph 4 of this section, according to the improvement plan required by the Oklahoma 9-1-1 Management Authority Act. The Authority shall establish a time period for the public agency to come into compliance after which the Authority shall escrow funds as authorized in this section. Improvement plans may include consideration and recommendations for consolidation with other public agencies, and sharing equipment and technology with other jurisdictions;

7. Require an annual report from public agencies regarding operations and financing of the public safety answering point (PSAP) and approve, modify or reject such reports;

8. Conduct and review audits and financial records of the wireless service providers and review public agencies' audits and financial records regarding the collection, remittance and expenditures of 9-1-1 wireless telephone fees as required by the Oklahoma 9-1-1 Management Authority Act;

9. Develop a master plan to deploy next-generation 9-1-1 services statewide. The Authority may fund feasibility and implementation studies it deems necessary to create the plan This will include the development of performance criteria critical to the function and performance of NG9-1-1 networks and systems;

10. Establish rules for interoperability between state, regional and local NG9-1-1 systems;

11. Facilitate information-sharing among public agencies;

~~11.~~ 12. Create and maintain best practices databases for PSAP operations;

~~12.~~ 13. Encourage equipment- and technology-sharing among all jurisdictions;

~~13.~~ 14. Develop training program standards for 9-1-1 call takers.

a. Training program standards shall include instruction on recognizing the need for and delivery of High-Quality Telecommunicator CPR (T-CPR) that can be delivered by 9-1-1 call takers for acute events requiring CPR including, but not limited to, out-of-hospital cardiac events (OHCA).

b. T-CPR training shall follow evidence-based, nationally recognized guidelines for high-quality T-CPR which incorporates recognition protocols for OHCA and continuous education;

~~14.~~ 15. Mediate disputes between public agencies and other entities involved in providing 9-1-1 emergency telephone services;

~~15.~~ 16. Provide a clearinghouse of contact information for communications service companies and PSAPs operating in this state;

~~16.~~ 17. Make recommendations for consolidation upon the request of public agencies; ~~and~~

~~17.~~ 18. Establish an eligible use list for 9-1-1 funds; and

19. Take any steps necessary to carry out the duties required by the Oklahoma 9-1-1 Management Authority Act.

SECTION 2. AMENDATORY Section 6, Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2020, Section 2866), is amended to read as follows:

Section 2866. A. 9-1-1 telephone fees authorized and collected by wireless service providers and Voice over Internet Protocol (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of

Section ~~5 of this act~~ 2865 of this title, from each of their end users residing in this state shall be paid to the Oklahoma Tax Commission no later than the twentieth day of the month succeeding the month of collection.

B. From the total fees collected pursuant to paragraphs 1 and 2 of subsection A of Section ~~5 of this act~~ 2865 of this title, one percent (1%) shall be retained by the wireless service provider or VoIP provider, and one percent (1%) shall be retained by the Tax Commission as reimbursement for the direct cost of administering the collection and remittance of the fees.

C. Every billed service subscriber shall be liable for any 9-1-1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1 Management Authority Act until the fee has been paid to the wireless service provider.

D. Fees imposed pursuant to the Oklahoma 9-1-1 Management Authority Act which are required to be collected by the wireless service provider or VoIP provider may be added to and shall be stated separately in any billings to the service subscriber.

E. The wireless service provider or VoIP provider shall have no obligation to take any legal action to enforce the collection of any 9-1-1 wireless telephone fee imposed pursuant to the provisions of the Oklahoma 9-1-1 Management Authority Act. Should any service subscriber tender a payment insufficient to satisfy all charges, tariffs, fees and taxes for wireless telephone or VoIP service, the amount tendered shall be credited to the 9-1-1 wireless telephone fee in the same manner as other taxes and fees.

F. Any 9-1-1 fee imposed pursuant to the provisions of the Oklahoma 9-1-1 Management Authority Act shall be collected insofar as practicable at the same time as, and along with, the charges for wireless telephone or VoIP service in accordance with the regular billing practice of the provider.

G. Nothing in the Oklahoma 9-1-1 Management Authority Act shall be construed to limit the ability of a wireless service provider or VoIP provider from recovering its costs associated with designing, developing, deploying and maintaining enhanced 9-1-1 service directly from the service subscribers of the provider, whether the

costs are itemized on the bill of the service subscriber as a surcharge or by any other lawful means.

H. The wireless service provider or VoIP provider shall maintain records of the amount of 9-1-1 telephone fees collected in accordance with the provisions of the Oklahoma 9-1-1 Management Authority Act for a period of three (3) years from the time the fee is collected. The State Auditor and Inspector, the Oklahoma 9-1-1 Management Authority or any affected public agency may require an annual audit of the books and records of the wireless service provider or VoIP provider concerning the collection and remittance of fees authorized by ~~this act~~ the Oklahoma 9-1-1 Management Authority Act. Auditors shall have access to all information used by the wireless service provider or VoIP provider to calculate and remit the 9-1-1 telephone fee. Audit expenses shall be reimbursable pursuant to procedures established by the Oklahoma 9-1-1 Management Authority if the audit is approved by the Authority.

I. The wireless service provider or VoIP provider shall provide to the Oklahoma 9-1-1 Management Authority an annual census showing the primary place of use of its subscribers located by county and either a municipality or unincorporated area. The census shall contain all subscribers as of December 31 of each year, and shall be provided to the Authority no later than February 1 of each year.

J. All proprietary information provided by a wireless service provider or VoIP provider to the Authority shall not be subject to disclosure to the public or any other party.

K. Within thirty (30) days of receipt, the Oklahoma Tax Commission shall pay available fees remitted pursuant to Section ~~5 of this act~~ 2865 of this title to the governing bodies that the Oklahoma 9-1-1 Management Authority has certified in accordance with Section ~~4 of this act~~ 2864 of this title as eligible to receive funds. The share to be paid to or escrowed for each governing body shall be determined by dividing the population of the governing body by the total population of the state using the latest Federal Decennial Census estimates.

L. The Oklahoma Tax Commission shall provide the 9-1-1 Management Authority a monthly report showing the 9-1-1 wireless fee deposits including the name of the provider and the amount of each

deposit. Upon request the 9-1-1 Authority may request telephone or mailing address information of the provider.

SECTION 3. AMENDATORY Section 7, Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2020, Section 2867), is amended to read as follows:

Section 2867. A. Prepaid 9-1-1 wireless transaction fees authorized and collected pursuant to paragraph 3 of subsection A of Section ~~5 of this act~~ 2865 of this title from retailers shall be paid to the Oklahoma Tax Commission under procedures established by the Tax Commission that substantially coincide with the registration and payment procedures that apply under the Oklahoma Sales Tax Code and as directed by the Oklahoma 9-1-1 Management Authority. The audit and appeal procedures, including limitations period, applicable to the Oklahoma Sales Tax Code shall apply to prepaid 9-1-1 wireless telephone fees.

B. From the total fees collected pursuant to paragraph 3 of subsection A of Section ~~5 of this act~~ 2865 of this title, three percent (3%) shall be retained by the seller and one percent (1%) shall be retained by the Tax Commission as reimbursement for the direct cost of administering the collection and remittance of such fees.

C. The prepaid 9-1-1 wireless transaction fee shall be collected by the retailer from the consumer for each retail transaction occurring in this state. The amount of the prepaid 9-1-1 wireless fee shall either be separately stated on the invoice, receipt or similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

D. The prepaid 9-1-1 wireless telephone fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid 9-1-1 wireless telephone fees that the seller collects as provided in this section, including all charges that the seller is deemed to collect where the amount of the fee has not been separately stated on an invoice, receipt or other similar document.

E. If the amount of the prepaid 9-1-1 wireless telephone fee is separately stated on the invoice, receipt or similar document, the

prepaid 9-1-1 wireless telephone fee shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by the state, any political subdivision of this state or any intergovernmental agency.

F. The Oklahoma Tax Commission shall provide the 9-1-1 Management Authority with a monthly report showing the 9-1-1 wireless fee deposits including the name of the provider and the amount of each deposit. Upon request the 9-1-1 Authority may request telephone or mailing address information of the provider.

SECTION 4. AMENDATORY Section 8, Chapter 324, O.S.L. 2016 (63 O.S. Supp. 2020, Section 2868), is amended to read as follows:

Section 2868. A. Public agencies recognized by the Oklahoma 9-1-1 Management Authority and authorized to receive funds collected pursuant to the provisions of ~~this act~~ the Oklahoma 9-1-1 Management Authority Act shall use the funds only for services, equipment and operations related to 9-1-1 emergency telephone ~~systems~~ services.

B. The 9-1-1 Management Authority will oversee all 9-1-1 fees collected under the Oklahoma Emergency Telephone Act and the fees collected by this act. The Authority may order the Oklahoma Tax Commission to escrow fees attributable to public agencies which have misspent, diverted or supplanted 9-1-1 collected fees to a purpose other than what is authorized by the Oklahoma Emergency Telephone Act or this act.

C. Money remitted to public agencies pursuant to the Oklahoma 9-1-1 Management Authority Act and any money otherwise collected by any lawful means for purposes of providing 9-1-1 emergency telephone services shall be deposited in a separate 9-1-1 emergency telephone service account established by a public agency or its governing body to carry out the requirements of ~~this act~~ the Oklahoma 9-1-1 Management Authority Act. Monies remaining in such accounts at the end of a fiscal year shall carry over to subsequent years. The monies deposited in the Oklahoma 9-1-1 Management Authority Revolving Fund shall at no time be monies of the state and shall not become part of the general budget of the Office of Emergency Management or any other state agency. Except as otherwise authorized by ~~this act~~ the Oklahoma 9-1-1 Management Authority Act,

no monies from the Oklahoma 9-1-1 Management Authority Revolving Fund shall be transferred for any purpose to any other state agency or any account of the Office of Emergency Management or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense. Payments from the Oklahoma 9-1-1 Management Authority Revolving Fund shall not become or be construed to be any obligation of the state. No claims for reimbursement from the Oklahoma 9-1-1 Management Authority Revolving Fund shall be paid with state monies.

~~C.~~ D. If the Oklahoma 9-1-1 Management Authority determines that the public agency has failed to deploy Phase II service, failed to meet the State master plan for NG9-1-1 services or has failed to deliver service consistent with National Emergency Number Association (NENA) standards, the public agency shall submit an improvement plan within the time prescribed by the Authority. The Authority may order the Oklahoma Tax Commission to escrow fees attributable to public agencies which have not submitted plans or complied with improvement plans.

~~D.~~ E. A public agency shall be required to have conducted separately or as a part of the annual audit required by law of the municipality or county an annual audit of any accounts established or used for the operation of a 9-1-1 emergency telephone system. The audit may be conducted by the State Auditor and Inspector at the discretion of the public agency. The cost of the audit of the 9-1-1 emergency telephone system may be paid from and be considered a part of the operating expenses of the 9-1-1 emergency telephone system. Proprietary information of the wireless service providers shall be confidential. Audit information pertaining to revenue collected or disbursed may be released only in aggregate form so that no provider-specific information may be extrapolated.

~~E.~~ F. Public agencies shall be required to annually submit to the Authority:

1. A report, on a form to be prescribed by the Authority, covering the operation and financing of the public safety answering point which shall include all sources of funding available to the public agency for the 9-1-1 emergency telephone system; and

2. A copy of the most recent annual audit or budget showing all expenses of the public agency relating to the 9-1-1 emergency telephone system.

~~F.~~ G. The Authority shall have the power to review, approve, submit for further information or deny approval of the annual report of each public agency required pursuant to subsection ~~E~~ F of this section. Failure by a public agency to submit the report annually or denial of a report may cause the Authority to order the Tax Commission to escrow the 9-1-1 emergency telephone fees due to the public agency until the public agency complies with the requirements of the Oklahoma 9-1-1 Management Authority Act and the procedures established by the Authority.

~~G.~~ H. The governing body of the public agency shall meet at least quarterly to oversee the operations of the 9-1-1 emergency telephone system, review expenditures and annually set and approve an operating budget, and take any other action as necessary for the operation and management of the system.

~~H.~~ I. Records and meetings of the public agency shall be subject to the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

SECTION 5. This act shall become effective November 1, 2021.

Passed the Senate the 9th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____