Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1221 of the Regular Session

State of Arkansas
87th General Assembly
Regular Session, 2009

SENATE BILL 876

By: Senator D. Wyatt

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS PUBLIC SAFETY COMMUNICATIONS ACT OF 1985; TO INCREASE RATES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS PUBLIC SAFETY COMMUNICATIONS ACT OF 1985 AND TO INCREASE RATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 12-10-303, concerning definitions in the Arkansas Public Safety Communications Act of 1985, is amended to add an additional subdivision as follows:

(29) "Readiness costs" means equipment and payroll costs associated with equipment, call takers, and dispatchers on standby waiting for 911 calls.

SECTION 2. Arkansas Code § 12-10-318(b) and (c), concerning emergency telephone service charges, is amended to read as follows:

(b)(1)(A)(i) There is levied a commercial mobile radio service emergency telephone service charge in an amount of fifty cents (50¢) sixty-five cents (65¢) per month per commercial mobile radio service connection that has a place of primary use within the State of Arkansas.

(ii)(a) A commercial mobile radio service provider may determine, bill, collect, and retain an additional amount to reimburse
the commercial mobile radio service provider for enabling and providing 911 and enhanced 911 services and capability in the network and for the facilities and associated equipment.

(b) The commercial mobile radio service provider may add any amounts implemented under this subdivision (b)(1)(A)(ii) to the fifty cents (50¢) sixty-five cents (65¢) levied in subdivision (b)(1)(A)(i) of this section so that the commercial mobile radio service emergency telephone service charges appear as a single line item on a subscriber's bill.

(B)(i) There is levied a service charge of fifty cents (50¢) sixty-five cents (65¢) per month on prepaid wireless telephone service subscribers whose mobile set telephone numbers are assigned to the State of Arkansas.

(ii) Providers of prepaid wireless telephone service shall collect and remit the service charge under one (1) of the following methods:

(a) The CMRS provider shall collect on a monthly basis the fifty cents (50¢) sixty-five cents (65¢) service charge from each prepaid wireless telephone service customer whose account balance is equal to or greater than the amount of the service charge; or

(b) The CMRS provider shall divide the total earned prepaid wireless telephone service revenue received by the CMRS provider with respect to each prepaid wireless telephone service customer in the state within the monthly 911 reporting period by fifty dollars ($50.00) and multiply the quotient by the service charge amount.

(iii) In the case of prepaid wireless telephone service:

(a) The monthly wireless 911 surcharge imposed by this subdivision (b)(1)(B) shall be remitted based upon each prepaid wireless telephone associated with this state for each wireless service customer that has a sufficient positive balance as of the last day of each month;

(b) The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the mobile telephone number, or reasonable allocation method based upon other
comparable relevant date; and

(c)(1) If direct billing is not feasible, the prepaid subscriber’s account may be reduced by the surcharge amount or an equivalent number of minutes.

(2) However, collection of the wireless 911 surcharge under this subdivision (b)(1)(B)(iii)(c) does not reduce the sales price for any tax collected at the point of sale.

(C) There is levied a voice over internet protocol emergency telephone service charge in an amount of fifty cents (50¢) sixty-five cents (65¢) per month per voice over internet protocol connection that has a place of primary use within the State of Arkansas.

(D) There is levied a nontraditional telephone service charge in an amount of fifty cents (50¢) sixty-five cents (65¢) per month per nontraditional service connection that has a place of primary use within the State of Arkansas.

(E) Except for prepaid wireless telephone service, the service charge levied in subdivision (b)(1)(A) of this section and any additional amounts implemented under subdivision (b)(1)(B) of this section and collected by commercial mobile radio service providers that provide mobile telecommunications services as defined by the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, as in effect on January 1, 2001, shall be collected pursuant to the Mobile Telecommunications Sourcing Act.

(2)(A) The service charges collected under subdivision (b)(1)(A) of this section, less administrative fees under subdivision (c)(3) of this section, shall be remitted to the Arkansas Emergency Telephone Services Board within sixty (60) days after the end of the month in which the fees are collected.

(B) The funds collected pursuant to subdivision (b)(1)(A) of this section shall not be deemed revenues of the state and shall not be subject to appropriation by the General Assembly.

(c)(1) There is established the Arkansas Emergency Telephone Services Board consisting of the following:

(A) The Auditor of State or his or her designated representative;

(B) Two (2) representatives selected by a majority of the
commercial mobile radio service providers licensed to do business in the state; and

(C) Two (2) 911 system employees selected by a majority of the public safety answering point administrators in the state.

(2) The responsibilities of the board shall be as follows:

(A) To establish and maintain an interest-bearing account in which will be deposited revenues from the service charges levied under subdivision (b)(1)(A) of this section;

(B) To manage and disburse the funds from the account levied under subdivision (b)(1)(A) of this section in the following manner:

(i) Not less than **forty-nine percent (49%) eighty-three and five-tenths percent (83.5%)** of the total monthly revenues collected and remitted under subdivision (b)(1)(A) of this section shall be distributed on a population basis to each political subdivision operating a 911 public safety communications center which has the capability of receiving commercial mobile radio service 911 calls on dedicated 911 trunk lines for expenses incurred for the answering, routing, and proper disposition of 911 calls, including payroll costs, readiness costs, and training costs associated with wireless, voice over internet protocol, and nontraditional 911 calls;

(ii)(a) Not more than **forty-nine percent (49%) fifteen percent (15%)** of the total monthly revenues collected and remitted under subdivision (b)(1)(A) of this section shall be held in the interest-bearing account. The board shall report to Legislative Council in the event the sum held under this subdivision becomes less than three million five hundred dollars ($3,500,000).

(b) These funds may be utilized by the public safety answering points for the following purposes in connection with compliance with the Federal Communications Commission requirements:

upgrading, purchasing, programming, and installing, and maintaining necessary data, basic 911 GIS mapping, hardware, and software, including any network elements required to supply enhanced 911 phase II cellular, voice over internet protocol, and other nontraditional telephone service.

(c) Invoices must be presented to the board in connection with any request for reimbursement and be approved by a majority vote of the board to receive reimbursement.

(d) Any invoices presented to the board for...
reimbursements of costs not described by this section may be approved only by
a unanimous vote of the board;

(iii) Not more than one percent (1%) five-tenths percent (0.5%) of the fees collected under subdivision (b)(1)(A) of this
section may be utilized by the board to compensate the independent auditor
and for administrative expenses;

(iv) All interest received on funds in the interest-bearing account shall be disbursed as prescribed in subdivision (c)(2)(B)(i)
of this section; and

(v)(a) All cities and counties receiving funds under this section shall submit to the board no later than March 1
April 1 of each year an explanation and accounting of the funds received and expenditures of
those funds for the previous calendar year along with a copy of the budget
for the previous year and a copy of the year-end appropriation and
expenditure analysis of any participating or supporting counties, cities, or agencies.

(b)(1) The board may require any other
information necessary to ensure the funds have been properly utilized
according to this section.

(2) All cities and counties receiving funds
under this section shall also submit to the board no later than April 1 of
each year, a copy of all documents reflecting the 911 funds received for the
previous calendar year including without limitation wireless, wireline,
general revenues, sales taxes, and other sources used by the city or county
for 911 services.

(c) Failure to submit the proper accounting
information and failure to utilize the funds in a proper manner may result in
the suspension or reduction of funding until corrected;

(C)(i) To promulgate regulations necessary to perform its
duties prescribed by this subchapter.

(ii) In determining the population basis for
distribution of funds under subdivision (c)(2)(B)(i) of this section, the
board shall determine, based on the latest federal decennial census, the
population of all unincorporated areas of counties operating a 911 public
safety communications center that has the capacity of receiving commercial
mobile radio service, voice over internet protocol service, or nontraditional
911 calls on dedicated 911 trunk lines and the population of all incorporated
areas operating a 911 public safety communications center which has the
capability of receiving commercial mobile radio service, voice over internet
protocol service, or nontraditional 911 calls on dedicated 911 trunk lines
and compare the population of each of those political subdivisions to the
total population;
(D) To submit annual reports to the office of the Auditor
of State outlining fees collected and moneys disbursed to public safety
answering points under subdivision (b)(1)(A) of this section; and
(E)(i) To retain an independent third-party auditor for
the purposes of receiving, maintaining, and verifying the accuracy of any
proprietary information submitted to the board by commercial mobile radio
service providers.
(ii) Due to the confidential and proprietary nature
of the information submitted by commercial mobile radio service providers,
the information shall be retained by the independent auditor in confidence,
shall be subject to review only by the Auditor of State, and shall not be
subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., nor
released to any third party.
(iii) The information collected by the independent
auditor shall be released only in aggregate amounts that do not identify or
allow identification of numbers of subscribers or revenues attributable to an
individual commercial mobile radio service provider.
(3) Commercial mobile radio service providers, voice over
internet protocol, or other nontraditional communications providers shall be
entitled to retain one percent (1%) of the fees collected under subdivision
(b)(1)(A) of this section as reimbursement for collection and handling of the
charges.

/s/ D. Wyatt

APPROVED: 4/7/2009