

Introduced by

Senator Krebsbach

1 A BILL for an Act to create and enact a new section to chapter 57-40.6 of the North Dakota
2 Century Code, relating to the study of coordination of public safety answering points coverage;
3 to amend and reenact sections 57-40.6-01, 57-40.6-02, 57-40.6-03, 57-40.6-03.1, 57-40.6-04,
4 57-40.6-05, 57-40.6-06, and 57-40.6-08 of the North Dakota Century Code, relating to a fee on
5 telephone exchange access service and application of that fee to wireless service for support of
6 wireless enhanced 911 service; and to provide an effective date.

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, wireless service
14 network, or emergency enhanced 911 (E911) telephone system, which provides
15 rapid public access for coordinated dispatching of services, personnel, equipment,
16 and facilities for law enforcement, fire, medical, or other emergency services.
- 17 2. "FCC order" means federal communications commission order 94-102 (961
18 Federal Register 40348) and any other FCC order that affects the provision of
19 wireless enhanced 911 service.
- 20 3. "Public safety answering point" or "PSAP" means a communications facility
21 operated on a twenty-four hour basis which first receives 911 calls from persons in
22 a 911 service area and which, as appropriate, may directly dispatch public safety
23 services or extend, transfer, or relay 911 calls to appropriate public safety
24 agencies.

- 1 4. "Subscriber service address" means, for purposes of wire line subscribers, the
2 address where the telephone subscriber's wire line telephone device is used and,
3 for purposes of wireless subscribers, the place of primary use, as that term is
4 defined in the Mobile Telecommunications Sourcing Act (Pub.L. 106-252; 4 U.S.C.
5 124(8)).
- 6 5. "Telephone access line" means the principal access to the telephone company's
7 switched network including an outward dialed trunk or access register.
- 8 6. "Telephone exchange access service" means service to any wire line telephone
9 access line identified by a unique telephone number that provides local wire line
10 access to the telecommunications network to a service subscriber and which
11 enables the subscriber to access the emergency services communications system
12 by dialing the digits 9-1-1 on the subscriber's telephone device.
- 13 7. "Wireless access line" means each active wireless telephone number assigned to
14 a commercial mobile radio service subscriber, including end users of resellers.
- 15 8. "Wireless enhanced 911 service" means the service required to be provided by
16 wireless service providers pursuant to the FCC order.
- 17 9. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.
18 332(d)(1) and includes:
- 19 a. Services commonly referred to as wireless; and
- 20 b. Services provided by any wireless real time two-way voice communication
21 device, including radio-telephone communications used in:
- 22 (1) Cellular telephone service;
- 23 (2) Personal communications service; or
- 24 (3) The functional or competitive equivalent of a radio-telephone
25 communications line used in cellular telephone service, personal
26 communications service, or a network radio access line.
- 27 10. "Wireless service provider" means any entity authorized by the federal
28 communications commission to provide wireless service within the state of North
29 Dakota.

30 **SECTION 2. AMENDMENT.** Section 57-40.6-02 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **57-40.6-02. Authority of counties or cities to impose ~~excise tax~~ fee on telephone**

2 **exchange access lines service and on wireless service - Procedure.** The governing body

3 of a county or city may impose ~~an excise tax~~ a fee on the use of telephone exchange access

4 ~~lines~~ service and on the use of wireless service in accordance with the following requirements:

5 1. The governing body shall adopt a resolution that proposes the adoption of the
6 ~~excise tax~~ fee permitted under this section. The resolution must specify an
7 effective date for the ~~tax~~ fee which is no more than two years before the expected
8 implementation date of the emergency services communication system to be
9 funded by the ~~excise tax~~ fee. The resolution must include a provision for
10 submitting the proposed ~~excise tax~~ fee to the electors of the county or city before
11 the imposition of the ~~tax~~ fee is effective. The resolution must specify a ~~tax~~ fee that
12 does not exceed one dollar per month per telephone access line and per wireless
13 access line.

14 2. The question of the adoption of the ~~excise tax~~ fee must be submitted on a ballot on
15 which the ballot title of the proposition includes the maximum monthly rate of the
16 proposed ~~tax~~ fee authorized under subsection 1. The question of the adoption of
17 the ~~excise tax~~ fee may be submitted to electors at a general, primary, or special
18 election or at a school district election if the boundaries of the school district are
19 coterminous with the boundaries of the governing body adopting the resolution
20 proposing the adoption of the ~~excise tax~~ fee. The ~~tax~~ fee is not effective unless it
21 is approved by a majority of the electors voting on the proposition. The ballot must
22 be worded so that a "yes" vote authorizes imposition of the ~~tax~~ fee for an initial
23 six-year period.

24 3. Any political subdivision that desires to increase the ~~tax~~ fee, subject to the
25 limitations in subsection 1, before the end of the six-year term, must use the same
26 ballot procedure originally used to authorize the ~~tax~~ fee. The new ballot question
27 may apply to only the proposed increase and not to the original amount or the
28 original term. If the increase is approved, the new amount may be collected for the
29 balance of the original six-year term. If the ~~tax~~ fee authorized by this section is
30 approved by the electors, the ~~tax~~ fee may be reimposed for six additional years
31 without resubmitting the question to the electors.

- 1 4. In any geographic area, only one political subdivision may impose the ~~excise tax~~
2 fee and imposition must be based on the subscriber service address.
- 3 5. In the interest of public safety, where the ~~customers exchange~~ subscriber's
4 telephone exchange access service boundary and the boundary of the political
5 subdivision imposing the ~~tax fee~~ do not coincide, and where all of the political
6 subdivisions within the ~~exchange~~ subscriber's telephone exchange access service
7 boundary have not complied with subsection 1, and where a majority of the E911
8 subscribers within the ~~exchange~~ subscriber's telephone exchange access service
9 boundary have voted for the ~~tax fee, an exchange customer residing a telephone~~
10 exchange access service subscriber whose subscriber service address is outside
11 the political subdivision may receive E911 services by signing a contract
12 agreement with the political subdivision providing the emergency
13 ~~telecommunications system~~ services communications system. The telephone
14 ~~company~~ exchange access service provider may collect an additional ~~tax fee~~,
15 equal in amount to the basic ~~tax fee~~ on those subscribers within the exchange
16 boundary. The additional ~~tax fee~~ amounts collected must be remitted as provided
17 in this chapter.
- 18 6. A fee imposed under this section before August 1, 2001, may be extended to all
19 wireless service at each subscriber service address within the area in which the
20 fee is imposed only if that extension of the fee has been approved by a majority
21 vote of the governing body of the city or county upon at least thirty days' prior
22 notice in the official newspaper of the city or county that the governing body will
23 consider the issue or by majority vote of the electors of the city or county voting on
24 the question upon placement of the question on the ballot by the governing body of
25 the city or county at a regular or special city or county election.

26 **SECTION 3. AMENDMENT.** Section 57-40.6-03 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-40.6-03. Payment of ~~tax fee~~ by telephone ~~company~~ exchange access service**
29 **and wireless service subscriber.** The resolution imposing a ~~tax fee~~ under section 57-40.6-02
30 must include a requirement that the telephone ~~company~~ exchange access service provider and
31 the wireless service provider collect the ~~tax fee~~ from the subscriber. In its billing statement or

1 invoice to the subscriber, the telephone ~~company~~ exchange access service provider and the
2 wireless service provider shall state the amount of the ~~tax~~ fee separately.

3 **SECTION 4. AMENDMENT.** Section 57-40.6-03.1 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **57-40.6-03.1. Enhanced 911 data base management charges.** Any telephone
6 ~~company~~ exchange access service provider charges for enhanced 911 data base management
7 must be on a per telephone exchange access ~~line~~ service basis.

8 **SECTION 5. AMENDMENT.** Section 57-40.6-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-40.6-04. Tax Fee collection procedure.** A resolution adopted under section
11 57-40.6-02 must include adequate procedures for the administration and collection of the ~~tax~~
12 fee, including a provision for reimbursement to the telephone ~~company~~ exchange access
13 service provider and the wireless service provider for the actual costs of administration in
14 collection of the ~~tax~~ fee, not to exceed five percent of the fee collected. The resolution must
15 also include a provision that the ~~tax~~ fee be paid by the telephone ~~company~~ exchange access
16 service provider and the wireless service provider within thirty days after it is collected from the
17 subscriber.

18 **SECTION 6. AMENDMENT.** Section 57-40.6-05 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **57-40.6-05. Restriction on use of tax fee proceeds.** The ~~county~~ governing body
21 may not use the proceeds of the ~~tax~~ fee imposed under section 57-40.6-02 for any purpose
22 other than ~~establishing or operating the emergency services communication system as~~
23 provided in this section.

- 24 1. Within twenty-four months after the extension of the fee to wireless access lines
25 under subsection 6 of section 57-40.6-02, the governing body shall request
26 enhanced 911 service from all wireless carriers providing service as of that date
27 within the governing body's jurisdiction.
- 28 2. The governing body shall hold the portion of the revenues from the fee on wireless
29 service unexpended in a separate fund until such time as the governing body
30 makes a request for wireless enhanced 911 service or adopts a statement
31 certifying that it is capable of receiving and utilizing wireless enhanced 911 service,

- 1 whichever is earlier, provided that those revenues may not be expended until the
2 agreements required under subsection 3 have been executed.
- 3 3. The governing body or its designee shall enter into agreements directly with each
4 wireless service provider for only that provider's services necessary to implement,
5 maintain, and operate wireless enhanced 911 service as provided by law. A
6 governing body may not reimburse a wireless service provider for tower
7 construction or for the extension of a wireless service provider's infrastructure
8 which is not directly related to providing wireless enhanced 911 service.
- 9 4. Revenues in excess of the obligations incurred under the agreements specified by
10 this section, as determined on a monthly basis, may only be used for
11 implementing, maintaining, or operating the emergency services communication
12 system.
- 13 5. The governing body or its designee shall keep records to show expenditures for
14 wireless service providers separately from expenditures for telephone exchange
15 access service providers.

16 **SECTION 7. AMENDMENT.** Section 57-40.6-06 of the North Dakota Century Code is
17 amended and reenacted as follows:

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

27 **SECTION 8. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-40.6-08. Emergency services communication system or emergency**
30 **instructions - Liability.**

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

20 **SECTION 9.** A new section to chapter 57-40.6 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Reports of coordination of public safety answering points coverage.** The
23 governing body of a city or county, which adopted a fee on telephone exchange access service
24 and wireless service under this chapter, shall make an annual report of the income,
25 expenditures, and status of its emergency services communication system. The annual report
26 must be submitted to the state radio division and to the public safety answering points
27 coordinating committee. The committee is composed of three members, one appointed by the
28 North Dakota 911 association, one appointed by the North Dakota association of counties, and
29 one appointed by the office of management and budget to represent the state radio division.
30 The public safety answering points coordinating committee shall file its report with the
31 legislative council by November first of each even-numbered year.

1 **SECTION 10. EFFECTIVE DATE.** This Act becomes effective on August 1, 2001.