

ACT No. 665

2016 Regular Session

HOUSE BILL NO. 805

BY REPRESENTATIVES BROADWATER AND AMEDEE

1 AN ACT

2 To amend and reenact R.S. 33:9106(A)(3) through (5) and 9109 and to enact R.S. 33:9109.2,
3 relative to communications districts; to provide relative to the levy of an emergency
4 telephone service charge on certain communications systems; to increase the
5 maximum amount authorized to be levied within the district; to provide relative to
6 the use of service charge proceeds; to provide relative to the district's financial
7 reports; to provide relative to revenues collected from certain surcharge fees; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:9106(A)(3) through (5) and 9109 are hereby amended and
11 reenacted and R.S. 33:9109.2 is hereby enacted to read as follows:

12 §9106. Funding; definitions; emergency telephone service charge

13 A. As used in this Section, the following words and terms shall have the
14 following meanings, unless the context clearly indicates otherwise:

15 * * *

16 (3) "Exchange access facilities", "exchange access lines", or "lines" means
17 ~~all~~ lines; provided by the service supplier for the provision of local exchange service,
18 as defined in existing general subscriber services tariffs, or interconnected Voice
19 over Internet Protocol (VoIP) service as defined in 47 CFR 9.3. For a Primary Rate
20 Interface (PRI) circuit or other multiline service, the number of exchange access
21 facilities is equal to the capacity as activated by the service supplier for simultaneous
22 outward voice calls to the public switched telephone network.

1 (4) "Service supplier" means any person providing exchange telephone
2 service or interconnected Voice over Internet Protocol (VoIP) to any service user
3 throughout the parish.

4 (5) "Service user" means any person, not otherwise exempt from taxation,
5 who as an end user is provided exchange telephone service or interconnected Voice
6 over Internet Protocol (VoIP) in the parish.

7 * * *

8 §9109. Additional service charge on wireless telecommunications service

9 A. Intent. (1) The Federal Communications Commission has ~~issued rulings~~
10 ~~requiring that suppliers of cellular and other forms of wireless telecommunications~~
11 ~~services capable of accessing the 911 emergency telephone number provide certain~~
12 ~~enhancements to their services when requested by a communications district. These~~
13 ~~enhancements will automatically provide the number and location of the wireless~~
14 ~~caller to the communications district when a caller accesses 911. Although these~~
15 ~~enhancements currently exist for persons dialing 911 from "landline telephones",~~
16 ~~certain technological enhancements must be made in order to provide this~~
17 ~~information from wireless devices~~ outlined a plan that will require the public safety
18 community to field a new generation of 911 emergency call services which will
19 allow the use of additional and widely used digital media to contact Public Safety
20 Answering Points (PSAPs). Next Generation 911 (NG911) will permit the public
21 use of text messages, data, videos, as well as voice to transmit emergency
22 information to the servicing PSAP. It will allow this data to be further shared with
23 first responders for their use enroute to and at emergency scenes. Specific
24 technological enhancements shall be made within each PSAP in order to receive and
25 utilize this information from wireless devices.

26 (2) The legislature ~~also~~ finds that it is in the public interest ~~to automatically~~
27 ~~provide a wireless caller's telephone number when such a caller requests emergency~~
28 ~~services by calling the 911 telephone number~~ for 911 systems operated by the
29 communication districts within Louisiana to provide NG911 service to the public

1 when the necessary technological requirements can be met and sufficient funding to
 2 make these improvements becomes available.

3 ~~(3) The Federal Communications Commission further requires that a~~
 4 ~~mechanism be established which will enable wireless service suppliers and~~
 5 ~~communications districts to recover all costs associated with providing the enhanced~~
 6 ~~service.~~

7 (4)(3) It is the purpose of this Section to provide funding for such a cost
 8 recovery mechanism NG911, E911, 911 call taking, dispatch, telecommunication
 9 systems for first responders and for other lawful purposes of communications
 10 districts. It is also the purpose of this Section to provide civil immunity for the
 11 provision of 911 services by wireless service suppliers and all communication
 12 districts.

13 B. Definitions. As used in this Section, the following words and terms shall
 14 have the following meanings, unless the context clearly indicates otherwise:

15 (1) The term "automatic number identification" or "ANI" means an enhanced
 16 911 service capability that enables the automatic display of the ten-digit wireless
 17 telephone number used to place a 911 call and includes "pseudo-automatic number
 18 identification" or "pseudo-ANI", which means an enhanced 911 service capability
 19 that enables the automatic display of the number of the cell site and an identification
 20 of the CMRS provider.

21 (2) The term "CMRS" means commercial mobile radio service ~~under Section~~
 22 ~~3(27) and 332(d) of the Telecommunications Act of 1996, 47 United States Code~~
 23 ~~Section 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L.~~
 24 ~~103-66. The term includes the term "wireless" and includes service provided by any~~
 25 ~~wireless real time two-way voice communication device, including a radio-telephone~~
 26 ~~communications line used in cellular telephone service, a personal communication~~
 27 ~~service, specialized mobile radio service, or a network radio access line. The term~~
 28 ~~does not include service whose customers do not have access to 911 or to a similar~~
 29 ~~service, to a communication channel suitable only for data transmission, to a wireless~~

1 ~~roaming service or other nonlocal radio access line service, to paging services, or to~~
 2 ~~a private telecommunications system~~ as defined by 47 C.F.R. 20.3.

3 (3) The term "service supplier" means a person or entity who provides
 4 CMRS service.

5 (4) The term "CMRS connection" means each ~~mobile handset~~ device
 6 telephone number assigned to a CMRS customer.

7 (5) The term "service charge" means the CMRS emergency telephone
 8 service charge levied and collected pursuant to this Section.

9 (6) The term "district" means a communications district created pursuant to
 10 this Chapter or pursuant to or by any local or special Act.

11 (7) The term "E911" means an emergency telephone system that provides
 12 the caller with emergency 911 system service, that directs 911 calls to appropriate
 13 public safety answering points by selective routing based on the geographical
 14 location from which the call originated, and that provides the capability for
 15 automatic number identification and other features that the Federal Communications
 16 Commission may require in the future.

17 ~~(8) The term "FCC order" means the order of the Federal Communications~~
 18 ~~Commission, FCC Docket No. 94-102, adopted on June 12, 1996, and released on~~
 19 ~~July 26, 1996.~~

20 ~~(9) The term "wireless E911 service" means E911 service that provides~~
 21 ~~automatic number identification of wireless subscribers as required by the FCC~~
 22 ~~order.~~

23 C. Service charge. The governing authority of any district may levy a
 24 CMRS emergency telephone service charge subject to and in accordance with the
 25 provisions of this Subsection. Such service charge:

26 (1) Shall be levied only on CMRS service which enables a service user to
 27 access the 911 emergency telephone number through the use of a CMRS connection.

28 (2) Shall not exceed ~~eighty-five cents~~ one dollar and twenty-five cents per
 29 month per wireless CMRS connection or the rate which the district levies or is

1 authorized to levy on CMRS users on ~~July 9, 1999~~ August 1, 2016, whichever is
 2 higher.

3 (3)(a) Shall be levied by resolution or ordinance of the governing authority
 4 of the district. If the district levies an emergency telephone service charge, tax,
 5 charge, surcharge, or fee on ~~July 9, 1999~~ August 1, 2016, it shall not be required to
 6 adopt a new ordinance or resolution except to change the rate thereof.

7 (b) If a district governing authority levies no emergency telephone service
 8 charge, tax, charge, surcharge, or fee on local telephone service, or on exchange
 9 access facilities or their equivalent, the resolution or ordinance levying the service
 10 charge authorized by this Section shall not be adopted until such levy has been
 11 approved by a majority of the voters of the district voting at an election held for such
 12 purpose.

13 (c) If the district levies any emergency telephone service charge, tax, charge,
 14 surcharge, or fee on local telephone service, or on exchange access facilities or their
 15 equivalent, which has been approved by the voters of the district, voter approval of
 16 the service charge authorized by this Section shall not be required.

17 (4) Shall be levied against each CMRS connection for which the billing
 18 address is within the district. In the absence of a billing address, the service charge
 19 shall be levied against each CMRS connection for which the primary use is within
 20 the district. Notwithstanding the foregoing, the application of a CMRS emergency
 21 telephone service charge to any mobile telecommunications service, as defined in
 22 R.S. ~~47:301(14)(i)(ii)(bb)~~ 47:301(29)(p), shall apply only if the customer's place of
 23 primary use is located within the boundaries of the political subdivision levying such
 24 CMRS emergency telephone service charge. For purposes of this Paragraph, the
 25 provisions of R.S. ~~47:301(14)(i)(ii)(bb)~~ 47:301.1 shall apply in the same manner and
 26 to the same extent as such provisions apply to the taxes levied pursuant to R.S.
 27 47:302(C) and 331(C) on mobile telecommunications services.

28 (5) Shall have uniform application and shall be imposed throughout the
 29 entirety of the district to the greatest extent possible in conformity with availability
 30 of 911 service in any area of the district.

1 (6) Shall be a liability of the service user until it has been paid to the service
2 supplier.

3 (7)(a) Shall be collected as part of the supplier's normal billing process in
4 accordance with the provisions of this Paragraph.

5 (b) The service charge shall be collected by each service supplier providing
6 service in the district. The district shall notify, by certified mail, return receipt
7 requested, each service supplier of the adoption of the resolution or ordinance
8 provided for in Paragraph (3) of this Subsection. The duty of the wireless service
9 supplier to collect any such service charge or any increase in service charge
10 authorized by this Section shall commence within sixty days after receipt of such
11 notice.

12 (c) The service supplier shall add the service charge to its invoice to the
13 service user, but may state it separately therein.

14 (d)(i) The service supplier shall have no obligation to take any legal action
15 to enforce the collection of any service charge. However, the service supplier shall
16 annually provide the district governing authority with a list of the amount
17 uncollected, together with the names and addresses of those service users who carry
18 a balance that can be determined by the service supplier to be nonpayment of such
19 service charge. The service charge shall be collected in accordance with the regular
20 billing practice of the service supplier.

21 (ii) Good-faith compliance by the service supplier with this provision shall
22 constitute a complete defense to any legal action or claim which may result from the
23 service supplier's determination of nonpayment or the identification of service users
24 in connection therewith or both.

25 (e)(i) The amounts collected by the service supplier attributable to any
26 service charge shall be due quarterly. The amount of service charge collected in one
27 calendar quarter by the service supplier shall be remitted to the district no later than
28 sixty days after the close of a calendar quarter.

29 (ii) On or before the sixtieth day after the close of a calendar quarter, a
30 return, in such form as the district governing authority and the service supplier agree

1 upon, shall be filed with the district, together with a remittance of the amount of
2 service charge collected payable to the district.

3 (iii) The service supplier shall maintain records of the amount of the service
4 charge collected for a period of at least two years from date of collection. The
5 district governing authority may, at its expense, require an annual audit of the service
6 supplier's books and records with respect to the collection and remittance of the
7 service charge.

8 (iv) From the gross receipts to be remitted to the district, the service supplier
9 may retain, as an administrative fee, an amount equal to one percent thereof.

10 (8) Trunks or service lines used to supply service to service suppliers and
11 used by service suppliers to provide CMRS service shall not have a service charge
12 levied against them.

13 (9) The service charge, or any part or percentage thereof, shall not be subject
14 to any sales, use, franchise, income, excise, or any other tax, fee, or assessment, and
15 shall not be considered revenue of the service supplier for any purpose.

16 ~~(10) Any person or entity otherwise exempt from taxation shall be exempt
17 from the service charge authorized by this Section.~~

18 ~~D. Use of proceeds. (1) In any district having a population of not less than
19 twenty thousand persons as of the most recent federal decennial census, proceeds of
20 the service charge collected after July 9, 1999, less the administration fee which the
21 wireless service supplier is authorized to retain, shall be used for the following
22 purposes:~~

23 ~~(a)(i) For payment of service suppliers' and the district's costs associated
24 with the implementation of Phase I enhancements required by the FCC Order.~~

25 ~~(ii) No district shall make payment of a service suppliers' costs associated
26 with the implementation of Phase I enhancements required by such order unless there
27 is a cooperative endeavor agreement between the district and the supplier delimiting
28 the cost of implementation to be recovered by the service supplier.~~

29 ~~(iii) Once the district determines that net proceeds from the service charge
30 remitted to the district are sufficient to implement wireless E911 service by the~~

1 ~~district and all service suppliers providing service within the district, the district~~
 2 ~~shall request that each such service supplier implement such enhancements and shall~~
 3 ~~provide funds to each such service supplier in accordance with the applicable~~
 4 ~~agreement. In any district having a population of not less than thirty thousand~~
 5 ~~persons as of the most recent federal decennial census, such enhancements shall be~~
 6 ~~completed by the district and all of the service suppliers providing service within the~~
 7 ~~district within one year of the initial levy of the service charge authorized by this~~
 8 ~~Section. In any district having a population of less than thirty thousand but not less~~
 9 ~~than twenty thousand persons, such enhancements shall be completed by the district~~
 10 ~~and all of the service suppliers providing service within the district within eighteen~~
 11 ~~months of the initial levy of such charge.~~

12 ~~(iv) If such a district issues the notice required by Subparagraph C(7)(a) of~~
 13 ~~this Section, but fails to begin implementation of wireless E911 service within the~~
 14 ~~time limits for full implementation established for the particular district by Item (iii)~~
 15 ~~of this Subparagraph, the service supplier shall immediately cease collecting the~~
 16 ~~CMRS emergency telephone service charge.~~

17 ~~(b) For any lawful purpose of the district.~~

18 ~~(2) In any district having a population of less than twenty thousand persons~~
 19 ~~as of the most recent federal decennial census, proceeds of the service charge, less~~
 20 ~~any collection charge which the wireless service supplier is authorized to retain, may~~
 21 ~~be used for any lawful purpose of the district.~~

22 E.D. The financial records of the district shall be audited pursuant to the
 23 provisions of R.S. 24:513. In addition, each district shall submit an annual report to
 24 the legislative auditor which includes information on the revenues derived from the
 25 service charge authorized by this Section and the use of such revenues. Such report
 26 shall include a report on the status of implementation of wireless E911 service.

27 F.E. Liability. (1) Each ~~wireless~~ service supplier shall establish a
 28 mechanism to permit a district to have full-time access to such customer data as is
 29 available and needed to assist in the appropriate response to an emergency call which
 30 originates from a customer's wireless device. Such information shall be used only

1 by the district for the exclusive purpose of providing emergency services and shall
2 otherwise remain confidential and shall be exempt from disclosure under R.S. 44:1
3 et seq.

4 (2) Each ~~wireless~~ service supplier shall adhere to a standard of service in
5 providing access to the 911 telephone system by its wireless service users as may be
6 established by the National Emergency Number Association. Until such standards
7 are promulgated, each ~~wireless~~ service supplier shall adhere to commonly recognized
8 and observed industry standards.

9 * * *

10 §9109.2. Restrictions imposed on use of certain funds

11 Notwithstanding any provision of law to the contrary, all revenues collected
12 from the assessment of 911 surcharge fees in a parishwide communications district,
13 as provided in this Chapter, shall be used for the express purpose of providing 911
14 emergency response communications services and operations. The funds shall not
15 be diverted for use by any other entity or for any purpose other than those outlined
16 in this Chapter.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____