

FINAL BILL REPORT

HB 2595

C 341 L 02

Synopsis as Enacted

Brief Description: Providing funding for wireless enhanced 911 services.

Sponsors: By Representatives Morris, Anderson, Gombosky, Cox, Edwards, Nixon, Ogden, Santos, Delvin, Veloria, Conway, Cooper, Ruderman, Wood, Kagi and Sullivan.

House Committee on Finance
Senate Committee on Ways & Means

Background:

State and Local Enhanced 911 Taxes

Emergency 911 telephone services allow callers to reach agencies that can dispatch the appropriate type of response. Enhanced 911 services (E911) allow the person answering the emergency call to identify the location of the calling party.

In 1991 the voters of Washington adopted Referendum 42, which imposed a 20 cent maximum per-month tax on each switched access telephone line (wireline) to support statewide coordination and management of the E911 system and to help supplement county-level operational costs. In 1998 the Legislature amended the 1991 law to prohibit distribution of state funds to any county that does not impose the maximum tax for emergency services communication systems. The maximum county taxing authority for these purposes is 50 cents per switched access line per month and 25 cents per radio access (wireless) line per month on lines located in the county.

The state E911 tax is administered by a state E911 coordinator. The coordinator is assisted by the E911 advisory committee, appointed by the Adjutant General of the state Military Department and composed of fire, safety, utility, telecommunication, and local government officials. There are 27 members on the advisory committee, including representatives of large and small local exchange telephone companies.

The 1991 law also provided wireline telecommunications companies with limited immunity with respect to the good faith provision of services or information relating to 911 communications.

In 1994 and 1998 the Legislature added provisions to the E911 tax to clarify certain administrative issues relating to collections, liability, and agency authority.

E911 and Wireless Carrier Regulatory Authority

While wireline carriers are regulated by the Washington Utilities and Transportation Commission, wireless carriers are not regulated by the state. Instead, wireless carriers are regulated at the federal level by the Federal Communications Commission (FCC). Notwithstanding its authority, the FCC has not generally preempted state laws and rules concerning wireless communications issues relating to E911. Moreover, in certain areas, such as the development of technical and operational standards, the FCC has pushed the decision-making down to the state and local governmental levels.

In the 1994 state legislation authorizing counties to impose a wireless E911 tax of 25 cents per line per month, radio communications service (wireless) companies are defined to include certain entities that make facilities available to provide radio communications service, radio paging, or cellular communications for hire, sale, or resale. Because this definition is not linked to the FCC definition for commercial mobile service, the state tax base for the wireless E911 tax may become unaligned with federal regulatory coverage.

The 1994 state legislation also directed wireless companies to provide Automatic Number Identification (ANI) to Public Safety Answering Points (PSAPs) for 911 calls. While the FCC has not preempted that state law, several wireless carriers have refused to provide ANI to PSAPs on the grounds that the 1994 law conflicts with FCC orders issued in 1996 regarding the provision of E911 service by wireless carriers.

Federal Requirements Regarding the Development of Wireless Enhanced 911

The 1996 FCC order requiring wireless carriers to provide E911 service contains a two-phased approach. By April 1998 wireless carriers must provide ANI and cell sector locations for emergency calls (Phase I). By October 2001 wireless carriers must provide Automatic Location Identification (ALI), or actual latitude and longitude coordinates, so that most emergency calls could be pinpointed to within 410 feet of a caller's exact location (Phase II). These FCC requirements are mandatory to wireless carriers if the following conditions are met:

- A 911 call center requests ANI and cell sector location data (Phase I);
- The requesting call center is capable of receiving and using the data; and
- A funding mechanism is in place to recover costs of providing these E 911 services.

On November 18, 1999, the FCC removed the requirement that a funding mechanism be in place to recover wireless carrier costs of providing these E911 services, but retained the requirement for PSAP cost recovery.

Mobile Telecommunications Sourcing Requirements

Under the federal Mobile Telecommunications Sourcing Act of 2000, state and local

governments are required to allow mobile telecommunication transactions to be sourced to the customer's primary place of use. The federal law defines primary place of use as the street address where the customer's use of the mobile telecommunications service primarily occurs.

Summary:

The county 25 cent tax per month on each radio access line for basic 911 is redesignated as an enhanced 911 tax and increased to 50 cents. The tax base for the county tax is modified to provide that the tax applies to wireless lines whose place of primary use is within the county. The definition of radio communications service company as it applies under the county tax is updated to include the federal definition for commercial mobile radio services as well as facility- and nonfacility-based service resale companies. The definition is also modified under the tax to exclude paging companies.

A state enhanced 911 tax of 20 cents per month is imposed on each radio access line. Revenues from the state tax are deposited into the E911 account. The purposes for which the account may be used are expanded to include the implementation and operation of wireless E911 statewide, including adequate funding of counties and reimbursement of wireless carriers. None of the 20 cents may be distributed to a county unless the county has imposed the local 50 cent tax on each radio access line at the maximum rate.

The restriction on the distribution of funds to counties from the state E911 tax on switched access lines is modified so that the distribution is contingent on the imposition of the county E911 tax on only switched access lines at the maximum rate.

Representatives of large and small wireless companies are added to the E911 advisory committee. With the advice of the committee, the state E911 coordinator is required to set uniform standards for the transmission of 911 calls from wireless companies to E911 systems. The standards must not exceed standards of the FCC.

The administrative provisions of the E911 taxes are modified to reflect the additional state tax. Limited immunity for the good faith provision of 911 services and information is extended to wireless carriers.

The state ANI law is repealed.

Votes on Final Passage:

House 86 11
Senate 42 6

Effective: January 1, 2003