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ENGROSSED SUBSTITUTE HOUSE BILL 1938

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Fraser, Grant, May, Winsley, Roland, Riley, Miller, Phillips, O'Brien, Rasmussen, Sheldon, Basich, Ogden, Orr, Bray, Pruitt and Sprenkle).

Read first time March 4, 1991.

1 AN ACT Relating to state-wide implementation of enhanced 911;  
2 amending RCW 38.52.030, 9.73.070, 82.14B.010, 82.14B.020, 82.14B.030,  
3 82.14B.040, 82.14B.090, and 82.14B.100; adding new sections to chapter  
4 38.52 RCW; and repealing RCW 80.36.550, 80.36.5501, and 82.14B.080.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that a state-wide  
7 emergency communications network of enhanced 911 telephone service,  
8 which allows an immediate display of a caller's identification and  
9 location, would serve to further the safety, health, and welfare of the  
10 state's citizens, and would save lives. The legislature, after  
11 reviewing the study outlined in section 1, chapter 260, Laws of 1990,  
12 further finds that state-wide implementation of enhanced 911 telephone  
13 service is feasible and should be accomplished as soon as practicable.

1       **Sec. 2.** RCW 38.52.030 and 1986 c 266 s 25 are each amended to read  
2 as follows:

3       (1) The director may employ such personnel and may make such  
4 expenditures within the appropriation therefor, or from other funds  
5 made available for purposes of emergency management, as may be  
6 necessary to carry out the purposes of this chapter.

7       (2) The director, subject to the direction and control of the  
8 governor, shall be responsible to the governor for carrying out the  
9 program for emergency management of this state. The director shall  
10 coordinate the activities of all organizations for emergency management  
11 within the state, and shall maintain liaison with and cooperate with  
12 emergency management agencies and organizations of other states and of  
13 the federal government, and shall have such additional authority,  
14 duties, and responsibilities authorized by this chapter, as may be  
15 prescribed by the governor.

16       (3) The director shall develop and maintain a comprehensive, all-  
17 hazard emergency plan for the state which shall include an analysis of  
18 the natural and man-caused hazards which could affect the state of  
19 Washington, and shall include the procedures to be used during  
20 emergencies for coordinating local resources, as necessary, and the  
21 resources of all state agencies, departments, commissions, and boards.  
22 The comprehensive, all-hazard emergency plan authorized under this  
23 subsection may not include preparation for emergency evacuation or  
24 relocation of residents in anticipation of nuclear attack. This plan  
25 shall be known as the comprehensive emergency management plan.

26       (4) In accordance with the comprehensive emergency management plans  
27 and the programs for the emergency management of this state, the  
28 director shall procure supplies and equipment, institute training  
29 programs and public information programs, and shall take all other  
30 preparatory steps, including the partial or full mobilization of

1 emergency management organizations in advance of actual disaster, to  
2 insure the furnishing of adequately trained and equipped forces of  
3 emergency management personnel in time of need.

4 (5) The director shall make such studies and surveys of the  
5 industries, resources, and facilities in this state as may be necessary  
6 to ascertain the capabilities of the state for emergency management,  
7 and shall plan for the most efficient emergency use thereof.

8 (6) The director may appoint a communications coordinating  
9 committee consisting of six to eight persons with the director, or his  
10 or her designee, as chairman thereof. Three of the members shall be  
11 appointed from qualified, trained and experienced telephone  
12 communications administrators or engineers actively engaged in such  
13 work within the state of Washington at the time of appointment, and  
14 three of the members shall be appointed from qualified, trained and  
15 experienced radio communication administrators or engineers actively  
16 engaged in such work within the state of Washington at the time of  
17 appointment. This committee shall advise the director on all aspects  
18 of the communications and warning systems and facilities operated or  
19 controlled under the provisions of this chapter.

20 (7) The director, through the state enhanced 911 coordinator, shall  
21 coordinate and facilitate implementation and operation of a state-wide  
22 enhanced 911 emergency communications network.

23 (8) The director shall appoint a state coordinator of search and  
24 rescue operations to coordinate those state resources, services and  
25 facilities (other than those for which the state director of  
26 aeronautics is directly responsible) requested by political  
27 subdivisions in support of search and rescue operations, and on request  
28 to maintain liaison with and coordinate the resources, services, and  
29 facilities of political subdivisions when more than one political  
30 subdivision is engaged in joint search and rescue operations.

1       (~~(8)~~) (9) The director, subject to the direction and control of  
2 the governor, shall prepare and administer a state program for  
3 emergency assistance to individuals within the state who are victims of  
4 a natural or man-made disaster, as defined by RCW 38.52.010(6). Such  
5 program may be integrated into and coordinated with disaster assistance  
6 plans and programs of the federal government which provide to the  
7 state, or through the state to any political subdivision thereof,  
8 services, equipment, supplies, materials, or funds by way of gift,  
9 grant, or loan for purposes of assistance to individuals affected by a  
10 disaster. Further, such program may include, but shall not be limited  
11 to, grants, loans, or gifts of services, equipment, supplies,  
12 materials, or funds of the state, or any political subdivision thereof,  
13 to individuals who, as a result of a disaster, are in need of  
14 assistance and who meet standards of eligibility for disaster  
15 assistance established by the department of social and health services:  
16 PROVIDED, HOWEVER, That nothing herein shall be construed in any manner  
17 inconsistent with the provisions of Article VIII, section 5 or section  
18 7 of the Washington state Constitution.

19       (~~(9)~~) (10) The director shall appoint a state coordinator for  
20 radioactive and hazardous waste emergency response programs. The  
21 coordinator shall consult with the state radiation control officer in  
22 matters relating to radioactive materials. The duties of the state  
23 coordinator for radioactive and hazardous waste emergency response  
24 programs shall include:

25       (a) Assessing the current needs and capabilities of state and local  
26 radioactive and hazardous waste emergency response teams on an ongoing  
27 basis;

28       (b) Coordinating training programs for state and local officials  
29 for the purpose of updating skills relating to emergency response;

1 (c) Utilizing appropriate training programs such as those offered  
2 by the federal emergency management agency, the department of  
3 transportation and the environmental protection agency; and

4 (d) Undertaking other duties in this area that are deemed  
5 appropriate by the director.

6 NEW SECTION. **Sec. 3.** By December 31, 1998, each county,  
7 singly or in combination with adjacent counties, shall implement  
8 district-wide, county-wide, or multicounty-wide enhanced 911 emergency  
9 communications systems so that enhanced 911 is available throughout the  
10 state. The state enhanced 911 coordination office established by  
11 section 4 of this act shall assist and facilitate enhanced 911  
12 implementation throughout the state.

13 NEW SECTION. **Sec. 4.** A state enhanced 911 coordination  
14 office, headed by the state enhanced 911 coordinator, is established in  
15 the emergency management division of the department. Duties of the  
16 office shall include:

17 (1) Coordinating and facilitating the implementation and operation  
18 of enhanced 911 emergency communications systems throughout the state;

19 (2) Seeking advice and assistance from, and providing staff support  
20 for, the enhanced 911 advisory committee;

21 (3) Administering the enhanced 911 account created by section 6 of  
22 this act; and

23 (4) Recommending to the utilities and transportation commission by  
24 August 31st of each year the level of the state enhanced 911 excise tax  
25 for the following year.

26 NEW SECTION. **Sec. 5.** The enhanced 911 advisory committee is  
27 created to advise and assist the state enhanced 911 coordinator in

1 coordinating and facilitating the implementation and operation of  
2 enhanced 911 throughout the state. The director shall appoint members  
3 of the committee who represent diverse geographical areas of the state  
4 and include state residents who are members of the national emergency  
5 number association, the associated public communications officers  
6 northwest, the Washington state fire chiefs association, the Washington  
7 association of sheriffs and police chiefs, the Washington state council  
8 of fire fighters, the Washington state council of police officers, the  
9 Washington ambulance association, the state fire policy board, the  
10 Washington fire commissioners association, the Washington state patrol,  
11 the association of Washington cities, the Washington state association  
12 of counties, the utilities and transportation commission or commission  
13 staff, and representatives of large and small local exchange telephone  
14 companies. This section shall expire December 31, 2000.

15 NEW SECTION. **Sec. 6.** The enhanced 911 account is created in  
16 the custody of the state treasurer. All receipts from the state  
17 enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited  
18 into the account. Expenditures from the fund shall be used only to  
19 help implement and operate enhanced 911 state-wide. Only the state  
20 enhanced 911 coordinator may authorize expenditures from the account.  
21 The state enhanced 911 coordinator, with the advice and assistance of  
22 the enhanced 911 advisory committee, shall specify by rule the purposes  
23 for which moneys may be expended from this account. The account is  
24 subject to allotment procedures under chapter 43.88 RCW, but no  
25 appropriation is required for expenditures.

26 NEW SECTION. **Sec. 7.** The legislature finds that  
27 telecommunications companies providing consolidated emergency

1 communications systems and related service are not subject to liability  
2 in conjunction with providing these services except as stated below:

3 (1) No telecommunications company is liable to a person for the  
4 good-faith release to emergency communication system personnel of  
5 information not in the public record including nonpublished or  
6 nonlisted telephone numbers.

7 (2) A local exchange company providing emergency communications  
8 systems or services, and its employees and agents, is not liable in  
9 tort to a person for damages alleged to have been caused by the design,  
10 development, installation, maintenance, or provision of consolidated  
11 emergency communications systems or services, unless these entities or  
12 persons act with malice or criminal intent, or commit reckless,  
13 willful, and wanton conduct.

14 (3) For purposes of this section, "reckless, willful, and wanton  
15 conduct" is defined as an intentional and knowing action or failure to  
16 act, creating an unreasonable risk of harm to another, and which  
17 involves a high degree of probability that the harm will result.

18 **Sec. 8.** RCW 9.73.070 and 1967 ex.s. c 93 s 5 are each amended to  
19 read as follows:

20 (~~The provisions of~~) (1) This chapter shall not apply to any  
21 activity in connection with services provided by a common carrier  
22 pursuant to its tariffs on file with the Washington utilities and  
23 transportation commission or the Federal Communication Commission and  
24 any activity of any officer, agent or employee of a common carrier who  
25 performs any act otherwise prohibited by this law in the construction,  
26 maintenance, repair and operations of the common carrier's  
27 communications services, facilities, or equipment or incident to the  
28 use of such services, facilities or equipment. Common carrier as used  
29 in this section means any person engaged as a common carrier or public

1 service company for hire in intrastate, interstate or foreign  
2 communication by wire or radio or in intrastate, interstate or foreign  
3 radio transmission of energy.

4 (2) This chapter shall not apply to a 911 or enhanced 911 emergency  
5 service provided for purposes of aiding public health or public safety  
6 agencies to respond to calls placed for emergency assistance.

7 **Sec. 9.** RCW 82.14B.010 and 1981 c 160 s 1 are each amended to read  
8 as follows:

9 The legislature finds that the state and counties should be  
10 provided with an additional revenue source to fund enhanced 911  
11 emergency ((service)) communication systems throughout the state on a  
12 multicounty, county-wide, or district-wide basis. The legislature  
13 further finds that the most efficient and appropriate method of  
14 deriving additional revenue for this purpose is to ~~((vest the~~  
15 ~~legislative authorities of the counties, subject to voter approval,~~  
16 ~~with the power to)) impose an excise tax on the use of telephone access  
17 lines.~~

18 **Sec. 10.** RCW 82.14B.020 and 1981 c 160 s 2 are each amended to  
19 read as follows:

20 As used in this chapter:

21 (1) "Emergency services communication system" means a multicounty,  
22 county-wide, or district-wide radio or landline communications network,  
23 including an enhanced 911 telephone system, which provides rapid public  
24 access for coordinated dispatching of services, personnel, equipment,  
25 and facilities for police, fire, medical, or other emergency services.

26 (2) "~~((Telephone))~~ Enhanced 911 telephone system" means a public  
27 telephone system consisting of a network, data base, and on-premises  
28 equipment that is accessed by dialing 911 and that enables reporting



1 police, fire, medical, or other emergency situations to a public safety  
2 answering point. The system includes the capability to selectively  
3 route incoming 911 calls to the appropriate public safety answering  
4 point that operates in a defined 911 service area and the capability to  
5 automatically display the name, address, and telephone number of  
6 incoming 911 calls at the appropriate public safety answering point.

7 (3) "Switched access line" means the telephone service line which  
8 connects a subscriber(~~((s main telephone(s) or equivalent main~~  
9 ~~telephone(s)))~~) to the ((telephone)) local exchange company's switching  
10 office.

11 ~~((+3))~~ (4) "((Telephone)) Local exchange company" has the meaning  
12 ascribed to it in RCW 80.04.010.

13 **Sec. 11.** RCW 82.14B.030 and 1981 c 160 s 3 are each amended to  
14 read as follows:

15 (1) No later than January 1, 1992, the legislative authority of a  
16 county ((may)) shall impose ((an)) a county enhanced 911 excise tax on  
17 the use of ((telephone)) switched access lines in an amount not  
18 exceeding fifty cents per month for each ((telephone)) switched access  
19 line. ~~((The amount of tax shall be uniform for each telephone access~~  
20 line. This tax must be approved by a favorable vote of at least three-  
21 fifths of the electors thereof voting on the proposition, at which  
22 election the number of persons voting "yes" on the proposition shall  
23 constitute three-fifths of a number equal to forty per centum of the  
24 total votes cast in the county at the last preceding general election  
25 when the number of electors voting on the proposition does not exceed  
26 forty per centum of the total votes cast in the county in the last  
27 preceding general election; or by a majority of at least three-fifths  
28 of the electors thereof voting on the proposition when the number of  
29 electors voting on the proposition exceeds forty per centum of the

1 total votes cast in the county in the last preceding general election.  
2 This tax may be imposed for six years without subsequent voter  
3 approval. At any election held under this section, the ballot title of  
4 the proposition shall state the maximum monthly rate of the proposed  
5 tax which may be imposed by the county legislative authority. The  
6 actual rate of tax to be imposed shall be set by ordinance, which rate  
7 shall not exceed the maximum monthly rate approved by the electors.

8 No tax may be imposed under this section for more than one year  
9 before the expected implementation date of an emergency services  
10 communication system. The power granted under this section is in  
11 addition to any other authority which counties have to fund emergency  
12 services communication systems.)) Each county shall provide notice of  
13 such tax to all local exchange companies serving in the county at least  
14 sixty days in advance of the date on which the first payment is due.  
15 A tax of less than fifty cents may be imposed if the tax assessed fully  
16 funds the enhanced 911 program in the county. All receipts from the  
17 county enhanced 911 excise tax shall be used within the county as  
18 specified in RCW 82.14B.050.

19 (2) A state enhanced 911 excise tax is imposed on all switched  
20 access lines in the state. Until December 31, 1998, the amount of tax  
21 shall not exceed twenty cents per switched access line and thereafter  
22 shall not exceed ten cents per switched access line. The tax shall be  
23 uniform for each switched access line. Tax proceeds shall be deposited  
24 by the treasurer in the enhanced 911 account created in section 6 of  
25 this act.

26 (3) By August 31st of each year the state enhanced 911 coordinator  
27 shall recommend the level for the next year of the state enhanced 911  
28 excise tax to the utilities and transportation commission. The  
29 commission shall by the following October 31st determine the level of  
30 the state enhanced 911 excise tax for the following year.

1       **Sec. 12.** RCW 82.14B.040 and 1981 c 160 s 4 are each amended to  
2 read as follows:

3       (~~(A county imposing a)~~) The state enhanced 911 tax and the county  
4 enhanced 911 tax (~~((under))~~) created in this chapter shall (~~((require~~  
5 ~~collection of the tax))~~) be collected from the user by the (~~((telephone))~~)  
6 local exchange company providing the switched access line. The  
7 (~~((telephone))~~) local exchange company shall state the amount of the  
8 (~~((tax))~~) taxes separately on the billing statement which is sent to the  
9 user.

10       **Sec. 13.** RCW 82.14B.090 and 1987 c 17 s 3 are each amended to read  
11 as follows:

12       An emergency service communication district is authorized to  
13 finance and provide an emergency service communication system and(~~(, if~~  
14 ~~authorized by the voters,)~~) to finance the system by imposing the  
15 excise tax (~~((authorized))~~) imposed in RCW 82.14B.030.

16       **Sec. 14.** RCW 82.14B.100 and 1987 c 17 s 4 are each amended to read  
17 as follows:

18       RCW 82.14B.040 through 82.14B.060 apply to any emergency service  
19 communication district established under RCW 82.14B.070 (~~((through))~~) and  
20 82.14B.090. (~~(A ballot proposition to authorize the excise tax~~  
21 ~~authorized under RCW 82.14B.040 through 82.14B.060 may be submitted to~~  
22 ~~the voters of a proposed emergency service communication district at~~  
23 ~~the same election the ballot proposition creating the district is~~  
24 ~~submitted. The authority to impose the tax shall only exist if both of~~  
25 ~~these ballot propositions are approved.))~~)

26       NEW SECTION.   **Sec. 15.**       The following acts or parts of acts are  
27 each repealed:

- 1 (1) RCW 80.36.550 and 1990 c 260 s 3;
- 2 (2) RCW 80.36.5501 and 1990 c 260 s 2; and
- 3 (3) RCW 82.14B.080 and 1987 c 17 s 2.

4 NEW SECTION. **Sec. 16.** Sections 1 and 3 through 7 of this act  
5 are each added to chapter 38.52 RCW.