

BILL ANALYSIS

Senate Research Center

H.B. 2129
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Economic Development
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Engrossed

DIGEST

Currently, the Advisory Commission on State Emergency Communications (ACSEC) has the responsibility of setting 9-1-1 fees in most areas of the state. There are 24 emergency districts and 27 home-rule cities that are allowed to set and collect 9-1-1 fees in their areas because they were operating before the creation of ACSEC and were grandfathered to allow them to continue collecting fees they impose. The fee set by ACSEC is capped at 50 cents per line per month, but the 50 cent cap does not apply to grandfathered entities.

In 1996, the FCC adopted rules requiring wireless providers to offer 9-1-1 services similar to those offered by wire line providers. According to the FCC rule, wireless 9-1-1 services is required if the service is requested by the local government and if a funding mechanism is put in place to fund the cost of implementing the service. This bill will require all wireless providers to charge a \$0.50 fee on all cellular phones they provide service to and then remit those collections to ACSEC who will distribute the funds to municipalities, councils of government and emergency districts by population proportion.

PURPOSE

As proposed, H.B. 2129 requires the Advisory Commission on State Emergency Communications (ACSEC) to set a statewide 9-1-1 access charge for 9-1-1 calls made from cellular phones. Additionally, this bill prohibits the rate from exceeding \$0.50. Finally, this bill requires wireless service providers to remit those charges to ACSEC which would then distribute the funds to municipalities, councils of government and emergency districts by population proportion.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 771.001, Health and Safety Code, by adding Subdivisions (12) and (13), to define "wireless service provider" and "wireless telecommunications connection."

SECTION 2. Amends Chapter 771D, Health and Safety Code, by adding Section 771.0711, as follows:

Sec. 771.0711. EMERGENCY SERVICE FEE FOR WIRELESS TELECOMMUNICATIONS CONNECTIONS. (a) Requires the Advisory Commission on State Emergency Communications (ACSEC) to impose on each wireless telecommunications connection a 9-1-1 emergency service fee. Prohibits a political subdivision from imposing another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) Requires a wireless service provider to collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and to pay the money collected to ACSEC by a certain date. Authorizes the wireless service provider to retain an administration fee of one percent of the amount collected. Provides that money ACSEC collects under this subsection is from local fees and the money remains outside the state treasury.

(c) Provides that money collected under Subsection (b) may be used only for services related to 9-1-1 services. Requires ACSEC, by a certain deadline, to distribute to each regional planning commission and emergency communication district a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the commission or district bears to the total combined population of the areas served by a commission or district.

(d) Provides that a service provider of telecommunications service involved in providing wireless 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(e) Provides that a member of ACSEC, the governing body of a public agency, or the General Services Commission is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(f) Provides that a wireless service provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee. Authorizes ACSEC to establish collection procedures and recover the cost of collection from the subscriber liable for the fee. Authorizes ACSEC to institute legal proceedings to collect a fee and in those proceedings is entitled to recover from the subscriber court costs, attorney's fees, and interest on the amount delinquent. Sets forth the computation for the interest.

(g) Requires ACSEC or an emergency service district of a home-rule municipality or an emergency communication district created under Chapter 772 to reimburse the wireless service provider in accordance with state law for all expenses related to 9-1-1 service, upon receipt of an invoice from a wireless service provider for reasonable expenses for network facilities.

(h) Provides that information that a wireless service provider is required to furnish to a governmental entity in providing 9-1-1 service is confidential and exempt from disclosure under Chapter 552, Government Code. Provides that the wireless provider is not liable to any person who uses a 9-1-1 service created under this subchapter for the release of information furnished by the wireless service provider in providing 9-1-1 service. Authorizes information that is confidential under this section to be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

(i) Provides that nothing in this section may be construed to apply to wireline 9-1-1 service.

(j) Provides that nothing in this section precludes funds collected under Section 771.072 from being used to cover costs under Subsection (g), as necessary and appropriate.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Provides that this Act is governed by the provisions of Section 771.032, Health and Safety Code (Application of Sunset Act).

SECTION 5. Emergency clause.