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HOUSE BILL 2029

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Ericks, Morris, McCoy, Ormsby, Hudgins, Hunt, Takko, Springer, Van De Wege, Conway, Eddy, Hasegawa, Finn, Dunshee, Haigh, Kenney, Kessler, Morrell, and Goodman

Read first time 02/06/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to enhanced 911 emergency communications service;  
2 amending RCW 82.04.065; amending 2001 c 128 s 1 (uncodified); adding a  
3 new chapter to Title 82 RCW; repealing RCW 38.52.500, 38.52.501,  
4 38.52.505, 38.52.510, 38.52.520, 38.52.525, 38.52.530, 38.52.532,  
5 38.52.535, 38.52.540, 38.52.545, 38.52.550, 38.52.561, 82.14B.010,  
6 82.14B.030, 82.14B.040, 82.14B.042, 82.14B.050, 82.14B.060, 82.14B.061,  
7 82.14B.070, 82.14B.090, 82.14B.100, 82.14B.150, 82.14B.160, 82.14B.200,  
8 and 82.14B.210; repealing 2007 c 6 s 1707 (uncodified); prescribing  
9 penalties; providing an effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that statewide  
12 enhanced 911 has proven to be a lifesaving service and that routing a  
13 911 call to the appropriate public safety answering point with a  
14 display of the caller's identification and location should be available  
15 for all users of telecommunications or communications services,  
16 regardless of the technology used to make and transmit the 911 voice or  
17 data call. The legislature also finds that it is in the best public  
18 interest to ensure that there is adequate funding to support ongoing  
19 modernization of enhanced 911 service.

1        NEW SECTION.    **Sec. 2.** The adjutant general must establish rules on  
2 minimum information requirements of automatic location identification  
3 for the purposes of enhanced 911 emergency communications service as  
4 defined in section 13 of this act. Such rules permit the chief of a  
5 local fire department or a chief fire protection officer or such other  
6 person as may be designated by the governing body of a city or county  
7 to take into consideration local circumstances when approving the  
8 accuracy of location information generated when calls are made to 911  
9 from facilities within his or her service area.

10       NEW SECTION.    **Sec. 3.** Each county, singly or in combination with  
11 adjacent counties, must implement countywide or multicounty-wide  
12 enhanced 911 emergency communications service so that enhanced 911 is  
13 available throughout the state. The county must provide funding for  
14 the enhanced 911 emergency communications service in the county in an  
15 amount equal to the amount the 911 service fees under section 14 of  
16 this act would generate in the county or the amount necessary to  
17 provide full funding of the services in the county, whichever is less.  
18 The state enhanced 911 coordination office established by section 4 of  
19 this act must assist and facilitate enhanced 911 implementation  
20 throughout the state.

21       NEW SECTION.    **Sec. 4.** A state enhanced 911 coordination office,  
22 headed by the state enhanced 911 coordinator, is established in the  
23 emergency management division of the state military department. Duties  
24 of the office include:

25       (1) Coordinating and facilitating the implementation and operation  
26 of enhanced 911 emergency communications service throughout the state;

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

29       (3) Recommending to the utilities and transportation commission by  
30 August 31st of each year the level of the state enhanced 911 service  
31 fee for the following year.

32       NEW SECTION.    **Sec. 5.** The enhanced 911 advisory committee is  
33 created to advise and assist the state enhanced 911 coordinator in  
34 coordinating and facilitating the implementation and operation of  
35 enhanced 911 emergency communications service throughout the state.

1 The adjutant general must appoint members of the committee who  
2 represent diverse geographical areas of the state and include state  
3 residents who are members of the national emergency number association  
4 Washington chapter, the association of public safety communications  
5 officials Washington chapter, the Washington state fire chiefs  
6 association, the Washington association of sheriffs and police chiefs,  
7 the Washington state council of firefighters, the Washington state  
8 council of police officers, the Washington ambulance association, the  
9 state fire protection policy board, the Washington fire commissioners  
10 association, the Washington state patrol, the association of Washington  
11 cities, the Washington state association of counties, the utilities and  
12 transportation commission or commission staff, a representative of a  
13 voice over internet protocol company, and an equal number of  
14 representatives of large and small local exchange telephone companies  
15 and large and small radio communications service companies offering  
16 commercial mobile radio service in the state.

17 NEW SECTION. **Sec. 6.** On an annual basis, the enhanced 911  
18 advisory committee must provide an update on the status of enhanced 911  
19 emergency communications service in the state to the appropriate  
20 committees in the legislature.

21 NEW SECTION. **Sec. 7.** (1) The enhanced 911 account is created in  
22 the state treasury. All receipts from the state enhanced 911 service  
23 fees imposed by section 14 of this act must be deposited into the  
24 account. Moneys in the account shall be used only to support the  
25 statewide coordination and management of the enhanced 911 system, for  
26 the modernization and operation of enhanced 911 emergency  
27 communications service statewide, including service for wireline,  
28 wireless, internet protocol-enabled voice, and all other types of  
29 communications devices capable of transmitting voice or data to 911,  
30 and to help supplement, within available funds, the operational costs  
31 of the system, including adequate funding of counties' 911 operational  
32 costs.

33 (2) The state enhanced 911 coordinator, with the advice and  
34 assistance of the enhanced 911 advisory committee, is authorized to  
35 enter into statewide agreements to improve the efficiency of enhanced

1 911 emergency communications services for all counties and must specify  
2 by rule the additional purposes for which moneys, if available, may be  
3 expended from this account.

4 (3) Federal law provides under P.L. 110-283:

5 "All funds generated by the enhanced 911 service fees imposed by  
6 section 14 of this act must be obligated or expended only in support of  
7 enhanced 911 emergency communications service or the enhancements of  
8 enhanced 911 emergency communications service."

9 (4) Interest earned on the enhanced 911 account must remain with  
10 the 911 account.

11 **Sec. 8.** 2001 c 128 s 1 (uncodified) is amended to read as follows:

12 The legislature finds that the statewide emergency communications  
13 network of enhanced 911 telephone service, which allows an immediate  
14 display of a caller's identification and location, has served to  
15 further the safety, health, and welfare of the state's citizens, and  
16 has saved lives.

17 The legislature further finds that statewide operation and  
18 management of the enhanced 911 system will create efficiencies of  
19 operation and permit greater local control of county 911 operations,  
20 and further that some counties will continue to need assistance from  
21 the state to maintain minimum enhanced 911 service levels.

22 The legislature further finds that consumers are adopting new  
23 communications technologies that need to access 911 and contribute  
24 equally to the support of the modernization of the enhanced 911  
25 emergency communications service.

26 NEW SECTION. **Sec. 9.** In specifying rules defining the purposes  
27 for which available state 911 moneys may be expended, the state  
28 enhanced 911 coordinator, with the advice and assistance of the  
29 enhanced 911 advisory committee, shall consider base needs of  
30 individual counties for specific assistance. Priorities for available  
31 enhanced 911 funding are as follows: (1) To assure that 911  
32 dialing/access is operational statewide; (2) to assist counties as  
33 necessary to assure that they can achieve a basic service level for 911  
34 operations; and (3) to assist counties as practicable to acquire items  
35 of a capital nature appropriate to modernization and 911 effectiveness.

1        NEW SECTION.    **Sec. 10.**    A telecommunications company, radio  
2 communications service company, or internet protocol-enabled voice  
3 service provider, and providers of other communication services capable  
4 of transmitting voice or data to providing enhanced 911 emergency  
5 communications service or a business or individual providing database  
6 information to enhanced 911 emergency communications service personnel  
7 shall not be liable for civil damages caused by an act or omission of  
8 the company, business, or individual in the:

9        (1) Good faith release of information to public safety answering  
10 points not in the public record, including unpublished or unlisted  
11 subscriber information to emergency service providers responding to  
12 calls placed to enhanced 911 emergency communications service; or

13        (2) Design, development, installation, maintenance, or provision of  
14 consolidated or enhanced 911 emergency communications service other  
15 than an act or omission constituting gross negligence or wanton or  
16 willful misconduct.

17        NEW SECTION.    **Sec. 11.**    The state enhanced 911 coordinator, with  
18 the advice and assistance of the enhanced 911 advisory committee, shall  
19 set nondiscriminatory, uniform technical and operational standards  
20 consistent with the rules of the federal communications commission for  
21 the transmission of 911 calls from radio communications service  
22 companies, internet protocol-enabled voice service providers, and  
23 providers of other communications services capable of transmitting  
24 voice or data to enhanced 911 emergency communications service. These  
25 standards must not exceed the requirements set by the federal  
26 communications commission. The authority given to the state enhanced  
27 911 coordinator in this section is limited to setting standards as set  
28 forth in this section and does not constitute authority to regulate  
29 radio communications service companies or internet protocol-enabled  
30 voice service providers or other providers capable of transmitting  
31 voice or data to enhanced 911 emergency communications.

32        NEW SECTION.    **Sec. 12.**    The legislature finds that the state and  
33 counties should be provided with an additional revenue source to fund  
34 enhanced 911 emergency communications service throughout the state on  
35 a multicounty or countywide basis. The legislature further finds that  
36 the most efficient and appropriate method of deriving additional

1 revenue for this purpose is to impose a 911 service fee on wireline,  
2 wireless, internet protocol-enabled voice, and other communications  
3 devices capable of transmitting voice or data to 911.

4 NEW SECTION. **Sec. 13.** As used in this chapter:

5 (1) "Department" means the department of revenue.

6 (2) "Enhanced 911 emergency communications service" means a public  
7 communications access system consisting of a network, database, and on-  
8 premises equipment that is accessed by dialing or accessing 911 and  
9 that enables reporting police, fire, medical, or other emergency  
10 situations to a public safety answering point. The system includes the  
11 capability to selectively route incoming 911 voice or data to the  
12 appropriate public safety answering point that operates in a defined  
13 911 service area and the capability to automatically display the name,  
14 address, and telephone number of incoming 911 calls at the appropriate  
15 public safety answering point. "Enhanced 911 emergency communications  
16 service" includes the modernization to next generation 911 systems.

17 (3) "Switched access line" means the telephone service line which  
18 connects a subscriber's main telephone(s) or equivalent main  
19 telephone(s) to the local exchange company's switching office.

20 (4) "Local exchange company" has the meaning ascribed to it in RCW  
21 80.04.010.

22 (5) "Radio access line" means the telephone number assigned to or  
23 used by a subscriber for two-way local wireless voice service available  
24 to the public for hire from a radio communications service company.  
25 Radio access lines include, but are not limited to, radio-telephone  
26 communications lines used in cellular telephone service, personal  
27 communications services, and network radio access lines, or their  
28 functional and competitive equivalent. Radio access lines do not  
29 include lines that provide access to one-way signaling service, such as  
30 paging service, or to communications channels suitable only for data  
31 transmission, or to nonlocal radio access line service, such as  
32 wireless roaming service, or to a private telecommunications system.

33 (6) "Radio communications service company" has the meaning ascribed  
34 to it in RCW 80.04.010, except that it does not include radio paging  
35 providers. It does include those persons or entities that provide  
36 commercial mobile radio services, as defined by 47 U.S.C. Sec.  
37 332(d)(1), and both facilities-based and nonfacilities-based resellers.

1 (7) "Private telecommunications system" has the meaning ascribed to  
2 it in RCW 80.04.010.

3 (8) "Subscriber" means the retail purchaser of telephone service as  
4 telephone service is defined in RCW 82.16.010.

5 (9) "Place of primary use" has the meaning ascribed to it in RCW  
6 82.04.065.

7 (10) "Communications service" means any service or device that:  
8 (a) Uses telephone numbers or internet protocol addresses or their  
9 functional equivalents or successors; (b) is capable of accessing,  
10 connecting with, or interfacing with the enhanced 911 emergency  
11 communications service by dialing, initializing, or otherwise  
12 activating the enhanced 911 emergency communications service regardless  
13 of the transmission medium or technology employed; and (c) provides or  
14 enables real-time or interactive communications.

15 (11) "Communications service provider" means any entity that  
16 provides communications service.

17 (12) "Internet protocol-enabled voice" has the same meaning as  
18 "interconnected VoIP services" provided by the federal communications  
19 commission in Title 47 U.S.C. Sec. 64.601.

20 NEW SECTION. **Sec. 14.** (1) A county enhanced 911 service fee is  
21 imposed on the use of telecommunications and communications service to  
22 switched access lines, radio access lines, internet protocol-enabled  
23 voice devices or other communications service devices capable of  
24 transmitting voice or data to 911 in an amount of ninety cents per  
25 month for each device or service with active service. The service fee  
26 imposed under this subsection must be remitted to the department  
27 monthly on a service fee report provided by the department, which must  
28 include specification of the number of lines or devices and their  
29 associated fees for each county. The department must distribute the  
30 specified amount of service fees to each county, and the county must  
31 deposit the service fee proceeds in a dedicated enhanced 911 account.

32 (a) As of January 1, 2012, the county enhanced 911 service fee must  
33 increase to one dollar and twenty cents per month.

34 (b) As of January 1, 2014, the county enhanced 911 service fee must  
35 increase to one dollar and fifty cents per month.

36 (c) A joint legislative accounting review committee review of state

1 and local 911 service fees must be conducted and a report presented to  
2 the senate ways and means committee and the house of representatives  
3 ways and means committee no later than December 1, 2016.

4 (2) A state enhanced 911 service fee is imposed on  
5 telecommunications and communications service to switched access lines,  
6 radio access lines, internet protocol-enabled voice devices, and other  
7 communications service devices capable of transmitting voice or data to  
8 911 in the state. The amount of the fee must be uniform and may not  
9 exceed twenty-five cents per month for each switched access line, radio  
10 access line, internet protocol-enabled voice device, or other  
11 communications service devices capable of transmitting voice or data to  
12 911 with active service during the month. The fee imposed under this  
13 subsection must be remitted to the department of revenue monthly on a  
14 service fee report provided by the department. Service fee proceeds  
15 must be deposited by the treasurer in the enhanced 911 account created  
16 in section 7 of this act.

17 (3) By August 31st of each year the state enhanced 911 coordinator,  
18 with the advice of the enhanced 911 advisory committee, must recommend  
19 the level for the next year of the state enhanced 911 service fee  
20 imposed by subsection (2) of this section, based on a systematic cost  
21 and revenue analysis, to the utilities and transportation commission.  
22 The commission shall by the following October 31st determine the level  
23 of the state enhanced 911 service fee for the following year.

24 NEW SECTION. **Sec. 15.** The state enhanced 911 service fee and the  
25 county enhanced 911 service fee must be collected from the subscriber  
26 by the service provider for telecommunications or communications  
27 devices and services, including but not limited to switched access  
28 lines, radio access lines, internet protocol-enabled voice devices, and  
29 all other communications service devices capable of transmitting voice  
30 or data to 911. The amount of the service fee must be stated  
31 separately on the billing statement which is sent to the subscriber.

32 NEW SECTION. **Sec. 16.** (1) The state and county enhanced 911  
33 service fees imposed by this chapter must be paid by the subscriber to  
34 the local exchange company providing the switched access line, the  
35 radio communications service company providing the radio access line,  
36 the internet protocol-enabled voice service provider providing service

1 to the internet protocol-enabled voice device, or the other  
2 communications service provider providing service to the other  
3 communications service device capable of accessing and transmitting  
4 voice or data to 911, and each local exchange company, radio  
5 communications service company, internet protocol-enabled voice service  
6 provider, and other communications service provider must collect from the  
7 subscriber or customer the full amount of the service fees payable.  
8 The state and county enhanced 911 service fees required by this chapter  
9 to be collected by the local exchange company, the radio communications  
10 service company, the internet protocol-enabled voice service provider,  
11 or other communications service provider are deemed to be held in trust  
12 by the local exchange company, radio communications service company,  
13 internet protocol-enabled voice service provider, or other  
14 communications service provider until paid to the department. The due  
15 date for remittance of the service fees collected shall be on or before  
16 the last day of the month following the month in which the service fee  
17 liability accrues. Any local exchange company, radio communications  
18 service company, internet protocol-enabled voice service provider, or  
19 other communications service provider that appropriates or converts the  
20 fee collected to its own use or to any use other than the payment of  
21 the fee to the extent that the money collected is not available for  
22 payment on the due date as prescribed in this chapter is guilty of a  
23 gross misdemeanor.

24 (2) If any local exchange company, radio communications service  
25 company, internet protocol-enabled voice service provider, or other  
26 communications service provider fails to collect the state enhanced 911  
27 service fee or, after collecting the fee, fails to pay it to the  
28 department in the manner prescribed by this chapter, whether such  
29 failure is the result of its own act or the result of acts or  
30 conditions beyond its control, the local exchange company, radio  
31 communications service company, internet protocol-enabled voice service  
32 provider, or other communications service provider is personally liable  
33 to the state for the amount of the fee, unless the local exchange  
34 company, radio communications service company, internet protocol-  
35 enabled voice service provider, or other communications service  
36 provider has taken from the buyer in good faith a properly executed  
37 resale certificate under section 22 of this act.

1 (3) The amount of the service fee, until paid by the subscriber to  
2 the local exchange company, the radio communications service company,  
3 the internet protocol-enabled voice service provider, or other  
4 communications service provider or to the department, constitutes a  
5 debt from the subscriber to the local exchange company, radio  
6 communications service company, internet protocol-enabled voice service  
7 provider, or other communications service provider. Any local exchange  
8 company, radio communications service company, internet protocol-  
9 enabled voice service provider, or other communications service  
10 provider that fails or refuses to collect the service fee as required  
11 with intent to violate the provisions of this chapter or to gain some  
12 advantage or benefit, either direct or indirect, and any subscriber who  
13 refuses to pay any fee due under this chapter is guilty of a  
14 misdemeanor. The state enhanced 911 service fee required by this  
15 chapter to be collected by the local exchange company, radio  
16 communications service company, internet protocol-enabled voice service  
17 provider, or other communications service provider must be stated  
18 separately on the billing statement that is sent to the subscriber.

19 (4) If a subscriber has failed to pay to the local exchange  
20 company, radio communications service company, internet protocol-  
21 enabled voice service provider, or other communications service  
22 provider the state enhanced 911 service fee imposed by this chapter and  
23 the local exchange company, radio communications service company,  
24 internet protocol-enabled voice service provider, or other  
25 communications service provider has not paid the amount of the fee to  
26 the department, the department may, in its discretion, proceed directly  
27 against the subscriber for collection of the service fee, in which case  
28 a penalty of ten percent may be added to the amount of the fee for  
29 failure of the subscriber to pay the fee to the local exchange company,  
30 radio communications service company, internet protocol-enabled voice  
31 service provider, or other communications service provider regardless  
32 of when the fee is collected by the department. Fees under this  
33 chapter are due as provided under section 19 of this act.

34 NEW SECTION. **Sec. 17.** The proceeds of any fee collected under  
35 this chapter must be used by the state or county only for the enhanced  
36 911 emergency communications service, in accordance with federal law,  
37 P.L. 110-283. In accordance with federal law, P.L. 110-283: "All

1 funds generated by the enhanced 911 service fees imposed by section 14  
2 of this act shall be obligated or expended only in support of enhanced  
3 911 service or the enhancements of enhanced 911 service." Interest  
4 earned on the enhanced 911 account must remain with the enhanced 911  
5 account.

6 NEW SECTION. **Sec. 18.** A county legislative authority must  
7 establish by ordinance all necessary and appropriate procedures for the  
8 acceptance of the service fees by the department.

9 NEW SECTION. **Sec. 19.** (1) The department of revenue must  
10 administer and must adopt such rules as may be necessary to enforce and  
11 administer the state and county enhanced 911 service fees imposed by  
12 this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045,  
13 82.32.145, and 82.32.380, applies to the administration, collection,  
14 and enforcement of the state and county enhanced 911 service fees.

15 (2) The state and county enhanced 911 service fees imposed by this  
16 chapter, along with reports and returns on forms prescribed by the  
17 department, are due at the same time the taxpayer reports other fees  
18 under RCW 82.32.045. If no other fees are reported under RCW  
19 82.32.045, the taxpayer must remit the fee on an annual basis in  
20 accordance with RCW 82.32.045.

21 (3) The department of revenue may relieve any taxpayer or class of  
22 taxpayers from the obligation of remitting monthly and may require the  
23 return to cover other longer reporting periods, but in no event may  
24 returns be filed for a period greater than one year.

25 (4) The state and county enhanced 911 service fees imposed by this  
26 chapter are in addition to any fees imposed upon the same persons under  
27 chapters 82.08 and 82.12 RCW.

28 NEW SECTION. **Sec. 20.** (1) A local exchange company, radio  
29 communications service company, internet protocol-enabled voice service  
30 provider, or other communications service provider must file tax  
31 returns on a cash receipts or accrual basis according to which method  
32 of accounting is regularly employed in keeping the books of the  
33 company. A local exchange company, radio communications service  
34 company, internet protocol-enabled voice service provider, or other

1 communications service provider filing returns on a cash receipts basis  
2 is not required to pay service fees on debt subject to credit or refund  
3 under subsection (2) of this section.

4 (2) A local exchange company, radio communications service company,  
5 internet protocol-enabled voice service provider, or other  
6 communications service provider is entitled to a credit or refund for  
7 state enhanced 911 service fees previously paid on bad debts, as that  
8 term is used in Title 26 U.S.C. Sec. 166 of the federal internal  
9 revenue code, as amended or renumbered as of January 1, 2003.

10 NEW SECTION. **Sec. 21.** The service fees imposed by this chapter do  
11 not apply to any activity that the state or county is prohibited from  
12 taxing under the Constitution of this state or the Constitution or laws  
13 of the United States.

14 NEW SECTION. **Sec. 22.** (1) Unless a local exchange company, radio  
15 communications service company, internet protocol-enabled voice service  
16 provider, or other communications service provider has taken from the  
17 buyer a resale certificate or equivalent document under RCW 82.04.470,  
18 the burden of proving that a sale of the use of a switched access line  
19 or radio access line, or the service to an internet protocol-enabled  
20 voice device or other communications service device capable of  
21 transmitting voice or data to 911, was not a sale to a subscriber is  
22 upon the person who made the sale.

23 (2) If a local exchange company, radio communications service  
24 company, internet protocol-enabled voice service provider, or other  
25 communications service provider does not receive a resale certificate  
26 at the time of the sale, have a resale certificate on file at the time  
27 of the sale, or obtain a resale certificate from the buyer within a  
28 reasonable time after the sale, the local exchange company, radio  
29 communications service company, internet protocol-enabled voice service  
30 provider, or other communications service provider remains liable for  
31 the fees as provided in section 16 of this act, unless the local  
32 exchange company, radio communications service company, internet  
33 protocol-enabled voice service provider, or other communications  
34 service provider can demonstrate facts and circumstances according to  
35 rules adopted by the department of revenue that show the sale was  
36 properly made without payment of the state enhanced 911 service fee.

1 (3) The penalty imposed by RCW 82.32.291 may not be assessed on  
2 state enhanced 911 service fees due but not paid as a result of the  
3 improper use of a resale certificate. This subsection does not  
4 prohibit or restrict the application of other penalties authorized by  
5 law.

6 NEW SECTION. **Sec. 23.** (1) Upon termination, dissolution, or  
7 abandonment of a corporate or limited liability company business, any  
8 officer, member, manager, or other person having control or supervision  
9 of state enhanced 911 service fee funds collected and held in trust  
10 under section 16 of this act, or who is charged with the responsibility  
11 for the filing of returns or the payment of state enhanced 911 service  
12 fee funds collected and held in trust under section 16 of this act, is  
13 personally liable for any unpaid service fees and interest and  
14 penalties on those service fees, if such officer or other person  
15 willfully fails to pay or to cause to be paid any state enhanced 911  
16 service fees due from the corporation under this chapter. For the  
17 purposes of this section, any state enhanced 911 service fees that have  
18 been paid but not collected are deductible from the state enhanced 911  
19 service fees collected but not paid. For purposes of this subsection  
20 "willfully fails to pay or to cause to be paid" means that the failure  
21 was the result of an intentional, conscious, and voluntary course of  
22 action.

23 (2) The officer, member, manager, or other person is liable only  
24 for service fees collected that became due during the period he or she  
25 had the control, supervision, responsibility, or duty to act for the  
26 corporation described in subsection (1) of this section, plus interest  
27 and penalties on those service fees.

28 (3) Persons liable under subsection (1) of this section are exempt  
29 from liability if nonpayment of the state enhanced 911 service fee  
30 funds held in trust is due to reasons beyond their control as  
31 determined by the department by rule.

32 (4) Any person having been issued a notice of assessment under this  
33 section is entitled to the appeal procedures under RCW 82.32.160  
34 through 82.32.200.

35 (5) This section applies only if the department has determined that  
36 there is no reasonable means of collecting the state enhanced 911  
37 service fee funds held in trust directly from the corporation.

1 (6) This section does not relieve the corporation or limited  
2 liability company of other tax liabilities or otherwise impair other  
3 tax collection remedies afforded by law.

4 (7) Collection authority and procedures prescribed in chapter 82.32  
5 RCW apply to collections under this section.

6 **Sec. 24.** RCW 82.04.065 and 2007 c 6 s 1003 are each amended to  
7 read as follows:

8 (1) "Competitive telephone service" means the providing by any  
9 person of telecommunications equipment or apparatus, or service related  
10 to that equipment or apparatus such as repair or maintenance service,  
11 if the equipment or apparatus is of a type which can be provided by  
12 persons that are not subject to regulation as telephone companies under  
13 Title 80 RCW and for which a separate charge is made.

14 (2) "Ancillary services" means services that are associated with or  
15 incidental to the provision of "telecommunications services," including  
16 but not limited to "detailed telecommunications billing," "directory  
17 assistance," "vertical service," and "voice mail services."

18 (3) "Conference-bridging service" means an ancillary service that  
19 links two or more participants of an audio or video conference call and  
20 may include the provision of a telephone number. "Conference-bridging  
21 service" does not include the telecommunications services used to reach  
22 the conference bridge.

23 (4) "Detailed telecommunications billing service" means an  
24 ancillary service of separately stating information pertaining to  
25 individual calls on a customer's billing statement.

26 (5) "Directory assistance" means an ancillary service of providing  
27 telephone number information, and/or address information.

28 (6) "Vertical service" means an ancillary service that is offered  
29 in connection with one or more telecommunications services, that offers  
30 advanced calling features that allow customers to identify callers and  
31 to manage multiple calls and call connections, including conference-  
32 bridging services.

33 (7) "Voice mail service" means an ancillary service that enables  
34 the customer to store, send, or receive recorded messages. "Voice mail  
35 service" does not include any vertical services that the customer may  
36 be required to have in order to use the voice mail service.

1 (8) "Telecommunications service" means the electronic transmission,  
2 conveyance, or routing of voice, data, audio, video, or any other  
3 information or signals to a point, or between or among points.  
4 "Telecommunications service" includes such transmission, conveyance, or  
5 routing in which computer processing applications are used to act on  
6 the form, code, or protocol of the content for purposes of  
7 transmission, conveyance, or routing without regard to whether such  
8 service is referred to as voice over internet protocol services or is  
9 classified by the federal communications commission as enhanced or  
10 value added. "Telecommunications service" does not include:

11 (a) Data processing and information services that allow data to be  
12 generated, acquired, stored, processed, or retrieved and delivered by  
13 an electronic transmission to a purchaser where such purchaser's  
14 primary purpose for the underlying transaction is the processed data or  
15 information;

16 ~~(b) ((Installation or maintenance of wiring or equipment on a  
17 customer's premises;~~

18 ~~(c) Tangible personal property;~~

19 ~~(d) Advertising, including but not limited to directory  
20 advertising;~~

21 ~~(e) Billing and collection services provided to third parties;~~

22 ~~(f) Internet access service;~~

23 ~~(g))~~ Radio and television audio and video programming services,  
24 regardless of the medium, including the furnishing of transmission,  
25 conveyance, and routing of such services by the programming service  
26 provider. Radio and television audio and video programming services  
27 include but are not limited to cable service as defined in 47 U.S.C.  
28 Sec. 522(6) and audio and video programming services delivered by  
29 commercial mobile radio service providers, as defined in section 20.3,  
30 Title 47 C.F.R.;

31 ~~((h))~~ (c) Ancillary services; or

32 ~~((i))~~ (d) Digital products delivered electronically, including  
33 but not limited to software, music, video, reading materials, or ring  
34 tones.

35 (9) "800 service" means a telecommunications service that allows a  
36 caller to dial a toll-free number without incurring a charge for the  
37 call. The service is typically marketed under the name "800," "855,"

1 "866," "877," and "888" toll-free calling, and any subsequent numbers  
2 designated by the federal communications commission.

3 (10) "900 service" means an inbound toll "telecommunications  
4 service" purchased by a subscriber that allows the subscriber's  
5 customers to call in to the subscriber's prerecorded announcement or  
6 live service. "900 service" does not include the charge for:  
7 Collection services provided by the seller of the telecommunications  
8 services to the subscriber, or services or products sold by the  
9 subscriber to the subscriber's customer. The service is typically  
10 marketed under the name "900" service, and any subsequent numbers  
11 designated by the federal communications commission.

12 (11) "Fixed wireless service" means a telecommunications service  
13 that provides radio communication between fixed points.

14 (12) "Mobile wireless service" means a telecommunications service  
15 that is transmitted, conveyed, or routed regardless of the technology  
16 used, whereby the origination and/or termination points of the  
17 transmission, conveyance, or routing are not fixed, including, by way  
18 of example only, telecommunications services that are provided by a  
19 commercial mobile radio service provider.

20 (13) "Paging service" means a telecommunications service that  
21 provides transmission of coded radio signals for the purpose of  
22 activating specific pagers; these transmissions may include messages  
23 and/or sounds.

24 (14) "Prepaid calling service" means the right to access  
25 exclusively telecommunications services, which must be paid for in  
26 advance and which enable the origination of calls using an access  
27 number or authorization code, whether manually or electronically  
28 dialed, and that is sold in predetermined units or dollars of which the  
29 number declines with use in a known amount.

30 (15) "Prepaid wireless calling service" means a telecommunications  
31 service that provides the right to use mobile wireless service as well  
32 as other nontelecommunications services including the download of  
33 digital products delivered electronically, content, and ancillary  
34 services, which must be paid for in advance and that is sold in  
35 predetermined units or dollars of which the number declines with use in  
36 a known amount.

37 (16) "Private communications service" means a telecommunications  
38 service that entitles the customer to exclusive or priority use of a

1 communications channel or group of channels between or among  
2 termination points, regardless of the manner in which the channel or  
3 channels are connected, and includes switching capacity, extension  
4 lines, stations, and any other associated services that are provided in  
5 connection with the use of the channel or channels.

6 (17) "Value-added nonvoice data service" means a service that  
7 otherwise meets the definition of telecommunications services in which  
8 computer processing applications are used to act on the form, content,  
9 code, or protocol of the information or data primarily for a purpose  
10 other than transmission, conveyance, or routing.

11 (18) "Charges for mobile telecommunications services" means any  
12 charge for, or associated with, the provision of commercial mobile  
13 radio service, as defined in section 20.3, Title 47 C.F.R. as in effect  
14 on June 1, 1999, or any charge for, or associated with, a service  
15 provided as an adjunct to a commercial mobile radio service, regardless  
16 of whether individual transmissions originate or terminate within the  
17 licensed service area of the mobile telecommunications service  
18 provider.

19 (19) "Customer" means: (a) The person or entity that contracts  
20 with the home service provider for mobile telecommunications services;  
21 or (b) the end user of the mobile telecommunications service, if the  
22 end user of mobile telecommunications services is not the contracting  
23 party, but this subsection (19)(b) applies only for the purpose of  
24 determining the place of primary use. The term does not include a  
25 reseller of mobile telecommunications service, or a serving carrier  
26 under an arrangement to serve the customer outside the home service  
27 provider's licensed service area. "Customer" includes a subscriber.

28 (20) "Designated database provider" means a person representing all  
29 the political subdivisions of the state that is:

30 (a) Responsible for providing an electronic database prescribed in  
31 4 U.S.C. Sec. 119(a) if the state has not provided an electronic  
32 database; and

33 (b) Approved by municipal and county associations or leagues of the  
34 state whose responsibility it would otherwise be to provide a database  
35 prescribed by 4 U.S.C. Secs. 116 through 126.

36 (21) "Enhanced zip code" means a United States postal zip code of  
37 nine or more digits.

1 (22) "Home service provider" means the facilities-based carrier or  
2 reseller with whom the customer contracts for the provision of mobile  
3 telecommunications services.

4 (23) "Licensed service area" means the geographic area in which the  
5 home service provider is authorized by law or contract to provide  
6 commercial mobile radio service to the customer.

7 (24) "Mobile telecommunications service" means commercial mobile  
8 radio service, as defined in section 20.3, Title 47 C.F.R. as in effect  
9 on June 1, 1999.

10 (25) "Mobile telecommunications service provider" means a home  
11 service provider or a serving carrier.

12 (26) "Place of primary use" means the street address representative  
13 of where the customer's use of the mobile telecommunications or  
14 communications service primarily occurs, which must be:

15 (a) The residential street address or the primary business street  
16 address of the customer; and

17 (b) Within the licensed service area of the home service provider.

18 (27) "Prepaid telephone calling service" means the right to  
19 purchase exclusively telecommunications services that must be paid for  
20 in advance, that enables the origination of calls using an access  
21 number, authorization code, or both, whether manually or electronically  
22 dialed, if the remaining amount of units of service that have been  
23 prepaid is known by the provider of the prepaid service on a continuous  
24 basis.

25 (28) "Reseller" means a provider who purchases telecommunications  
26 services from another telecommunications service provider and then  
27 resells, uses as a component part of, or integrates the purchased  
28 services into a mobile telecommunications service. "Reseller" does not  
29 include a serving carrier with whom a home service provider arranges  
30 for the services to its customers outside the home service provider's  
31 licensed service area.

32 (29) "Serving carrier" means a facilities-based carrier providing  
33 mobile telecommunications service to a customer outside a home service  
34 provider's or reseller's licensed service area.

35 (30) "Taxing jurisdiction" means any of the several states, the  
36 District of Columbia, or any territory or possession of the United  
37 States, any municipality, city, county, township, parish,

1 transportation district, or assessment jurisdiction, or other political  
2 subdivision within the territorial limits of the United States with the  
3 authority to impose a tax, charge, or fee.

4 NEW SECTION. **Sec. 25.** The following acts or parts of acts are  
5 each repealed:

6 (1) RCW 38.52.500 (Statewide enhanced 911 service--Finding) and  
7 1991 c 54 s 1;

8 (2) RCW 38.52.501 (Statewide enhanced 911 service--Findings) and  
9 2002 c 341 s 1;

10 (3) RCW 38.52.505 (Statewide enhanced 911 service--Automatic  
11 location identification--Rules) and 1999 c 24 s 2;

12 (4) RCW 38.52.510 (Statewide enhanced 911 service--Funding by  
13 counties) and 1991 c 54 s 3;

14 (5) RCW 38.52.520 (State enhanced 911 coordination office) and 1991  
15 c 54 s 4;

16 (6) RCW 38.52.525 (State enhanced 911 coordination office--Public  
17 education materials) and 1995 c 243 s 9;

18 (7) RCW 38.52.530 (Enhanced 911 advisory committee.) and 2006 c 210  
19 s 1, 2002 c 341 s 3, 2000 c 34 s 1, 1997 c 49 s 7, & 1991 c 54 s 5;

20 (8) RCW 38.52.532 (Enhanced 911 advisory committee--Annual  
21 legislative update) and 2006 c 210 s 2;

22 (9) RCW 38.52.535 (State enhanced 911 coordination office and  
23 advisory committee--Uniform national standards) and 1998 c 245 s 32 &  
24 1995 c 243 s 10;

25 (10) RCW 38.52.540 (Enhanced 911 account) and 2002 c 371 s 905,  
26 2002 c 341 s 4, 2001 c 128 s 2, 1998 c 304 s 14, 1994 c 96 s 7, & 1991  
27 c 54 s 6;

28 (11) RCW 38.52.545 (Priorities for enhanced 911 funding) and 2001  
29 c 128 s 3;

30 (12) RCW 38.52.550 (Emergency communications systems and  
31 information--Immunity from civil liability) and 2002 c 341 s 5 & 1991  
32 c 329 s 7;

33 (13) RCW 38.52.561 (911 calls from radio communications service  
34 companies--Technical and operational standards) and 2002 c 341 s 6;

35 (14) RCW 82.14B.010 (Findings) and 1991 c 54 s 9 & 1981 c 160 s 1;

36 (15) RCW 82.14B.030 (County enhanced 911 excise tax on use of

1 switched access lines and radio access lines authorized--Amount--State  
2 enhanced 911 excise tax--Amount.) and 2007 c 54 s 17 & 2007 c 6 s 1024;  
3 (16) RCW 82.14B.040 (Collection of tax) and 2002 c 341 s 9, 1998 c  
4 304 s 4, 1994 c 96 s 4, 1991 c 54 s 12, & 1981 c 160 s 4;  
5 (17) RCW 82.14B.042 (Payment and collection of taxes--Penalties for  
6 violations) and 2002 c 341 s 10, 2000 c 106 s 2, & 1998 c 304 s 9;  
7 (18) RCW 82.14B.050 (Use of proceeds) and 1981 c 160 s 5;  
8 (19) RCW 82.14B.060 (Administration and collection by county--  
9 Ordinance) and 1998 c 304 s 5 & 1981 c 160 s 6;  
10 (20) RCW 82.14B.061 (Administration by department--Extending  
11 reporting periods) and 2002 c 341 s 11, 2000 c 106 s 3, & 1998 c 304 s  
12 6;  
13 (21) RCW 82.14B.070 (Emergency service communication districts--  
14 Authorized--Consolidation--Dissolution) and 1994 c 54 s 1 & 1987 c 17  
15 s 1;  
16 (22) RCW 82.14B.090 (Emergency service communication districts--  
17 Emergency service communication system--Financing--Excise tax) and 1991  
18 c 54 s 13 & 1987 c 17 s 3;  
19 (23) RCW 82.14B.100 (Emergency service communication districts--  
20 Application of RCW 82.14B.040 through 82.14B.060) and 1991 c 54 s 14 &  
21 1987 c 17 s 4;  
22 (24) RCW 82.14B.150 (Filing of tax returns--Credit or refund for  
23 bad debts) and 2004 c 153 s 309 & 1998 c 304 s 7;  
24 (25) RCW 82.14B.160 (Exemption--Activities immune from taxation  
25 under constitutions) and 1998 c 304 s 8;  
26 (26) RCW 82.14B.200 (Burden of proof that sale is not to  
27 subscriber--Effect of resale certificate--Liability if no retail  
28 certificate--Penalties--Exceptions) and 2002 c 341 s 12 & 1998 c 304 s  
29 10; and  
30 (27) RCW 82.14B.210 (Personal liability upon termination,  
31 dissolution, or abandonment of business--Exemptions--Notice--  
32 Applicability--Collections) and 1998 c 304 s 11.

33 NEW SECTION. **Sec. 26.** 2007 c 6 s 1707 (uncodified) is repealed.

34 NEW SECTION. **Sec. 27.** Sections 1 through 7 and 9 through 23 of  
35 this act constitute a new chapter in Title 82 RCW.

1        NEW SECTION.    **Sec. 28.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 29.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 July 1, 2009.

--- END ---