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H.B. No. 2507

A BILL TO BE ENTITLED

AN ACT

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relating to the establishment of an interoperable statewide emergency radio infrastructure and the imposition of an emergency radio infrastructure fee on certain telephone services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 771, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. INTEROPERABLE STATEWIDE EMERGENCY RADIO INFRASTRUCTURE

Sec. 771.151. DEFINITIONS. In this subchapter:

- (1) "Emergency radio infrastructure" means radio frequency hardware, software, or auxiliary equipment that:
  - (A) provides dispatch communications for this state and local governments to public safety agencies; and
  - (B) permits interoperable communication between different public safety agencies.

(2) "Local exchange access line" and "equivalent local exchange access line" have the meanings determined by the advisory commission under Section 771.063.

Sec. 771.152. EMERGENCY RADIO INFRASTRUCTURE FEE. (a) Notwithstanding Section 391.011, Local Government Code, and in accordance with this chapter and Chapter 772, to provide and maintain an interoperable statewide emergency radio infrastructure, the commission shall, for each customer required to

1 pay a fee under Sections 771.071, 771.0711, 771.072, 772.114,  
2 772.214, and 772.314, impose an emergency radio infrastructure fee  
3 on:

4 (1) a local exchange access line, equivalent local  
5 exchange access line, or wireless telecommunications connection;  
6 and

7 (2) a customer receiving intrastate long distance  
8 service.

9 (b) If a business service user provides residential  
10 facilities, each line that terminates at a residential unit, and  
11 that is a communication link equivalent to a residential local  
12 exchange access line, shall be charged the emergency radio  
13 infrastructure fee. The fee may not be imposed on:

14 (1) a line to coin-operated public telephone equipment  
15 or to public telephone equipment operated by card reader; or

16 (2) any line that the commission excluded from the  
17 definition of a local exchange access line or an equivalent local  
18 exchange access line under Section 771.063.

19 (c) The amount of the fee may not exceed 25 cents a month for  
20 each line.

21 (d) The emergency radio infrastructure fee imposed under  
22 this section is in addition to any other fee authorized by this  
23 chapter or Chapter 772, including Sections 771.071, 771.0711,  
24 771.072, 772.114, 772.214, and 772.314.

25 Sec. 771.153. COLLECTION OF FEE. (a) A customer on which a  
26 fee is imposed under this subchapter is liable for the fee in the  
27 same manner as the customer is liable for the charge for services

1 provided by the local exchange service provider, wireless service  
2 provider, or intrastate long distance service provider. The  
3 provider shall collect the fees imposed on its customers under this  
4 subchapter at the same time and in the same manner as the provider  
5 collects the charges for the service provided by the provider. The  
6 fee must be stated separately on the customer's bill.

7       (b) A local exchange service provider, wireless service  
8 provider, or intrastate long distance service provider shall  
9 monthly collect the emergency radio infrastructure fee imposed on  
10 its customers under Section 771.152. Not later than the 30th day  
11 after the last day of the month in which fees are collected, the  
12 provider shall remit the fees to the comptroller. The comptroller  
13 shall deposit money from the fees to the credit of the emergency  
14 radio infrastructure fee account.

15       (c) A local exchange service provider, wireless service  
16 provider, or intrastate long distance service provider shall  
17 maintain records of the amount of fees the provider collects at  
18 least until the second anniversary of the date the fee was  
19 collected. The comptroller may require at the comptroller's  
20 expense an annual audit of the provider's books and records.

21       (d) A local exchange service provider, wireless service  
22 provider, or intrastate long distance service provider may retain  
23 an administrative fee of two percent of the amount collected under  
24 this section.

25       (e) A local exchange service provider, wireless service  
26 provider, or intrastate long distance service provider is not  
27 required to take any legal action to enforce the collection of the

1 emergency radio infrastructure fee. The provider annually shall  
2 provide the comptroller with a certificate of delinquency that  
3 indicates the total amount of all delinquent fees and the name and  
4 address of each nonpaying customer.

5 (f) The comptroller may institute legal proceedings to  
6 collect a fee owed under this subchapter that is not paid and may  
7 establish internal collection procedures and recover from the  
8 customer the costs of collection. If the comptroller prevails, the  
9 court may award the comptroller court costs, attorney's fees, and  
10 interest on the delinquent amount. A delinquent fee accrues  
11 interest at an annual rate of 12 percent beginning on the date the  
12 payment becomes due.

13 Sec. 771.154. USE OF REVENUE. (a) Fees collected under  
14 this subchapter may only:

15 (1) be used for the planning, development, provision,  
16 enhancement, or ongoing maintenance of an interoperable statewide  
17 emergency radio infrastructure;

18 (2) be used in accordance with the state  
19 communications interoperability plan;

20 (3) be used for the development of a regional or state  
21 interoperable radio communication system; or

22 (4) be distributed as grants by the commission to:

23 (A) regional councils of government that have  
24 entered into interlocal agreements authorized under state law; and

25 (B) state agencies requiring emergency radio  
26 communications infrastructure.

27 (b) Fees collected and distributed as provided by this

1 subchapter may not be used to purchase or maintain radio subscriber  
2 equipment.

3 Sec. 771.155. EMERGENCY RADIO INFRASTRUCTURE FEE ACCOUNT.

4 (a) The emergency radio infrastructure fee account is an account in  
5 the general revenue fund.

6 (b) The account consists of:

7 (1) fees deposited in the fund as provided by Section  
8 771.153; and

9 (2) notwithstanding Section 404.071, Government Code,  
10 all interest attributable to money held in the account.

11 (c) Money in the account may be appropriated only to the  
12 commission for the planning, development, provision, enhancement,  
13 or ongoing maintenance of an interoperable statewide emergency  
14 radio infrastructure.

15 (d) Section 403.095, Government Code, does not apply to the  
16 account.

17 SECTION 2. Notwithstanding Subchapter F, Chapter 771,  
18 Health and Safety Code, as added by this Act, a local exchange  
19 service provider, wireless service provider, or intrastate long  
20 distance service provider is not required to collect the emergency  
21 radio infrastructure fee required by that subchapter until January  
22 1, 2010.

23 SECTION 3. This Act takes effect September 1, 2009.