

FIRST REGULAR SESSION

SENATE BILL NO. 119

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Pre-filed December 11, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0588S.011

AN ACT

To repeal sections 190.430 and 190.440, RSMo, and to enact in lieu thereof two new sections relating to the imposition of a fee upon wireless phone services for provision of enhanced 911 services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.430 and 190.440, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 190.430 and 190.440, to
3 read as follows:

190.430. 1. The commissioner of the office of administration is authorized
2 to establish a fee, if approved by the voters pursuant to section 190.440, not to
3 exceed fifty cents per wireless telephone number per month to be collected by
4 wireless service providers from wireless service customers.

5 2. The office of administration shall promulgate rules and regulations to
6 administer the provisions of sections 190.400 to 190.440. Any rule or portion of
7 a rule, as that term is defined in section 536.010, RSMo, that is promulgated
8 pursuant to the authority delegated in sections 190.400 to 190.440 shall become
9 effective only if it has been promulgated pursuant to the provisions of chapter
10 536, RSMo. All rulemaking authority delegated prior to July 2, 1998, is of no
11 force and effect and repealed; however, nothing in this section shall be
12 interpreted to repeal or affect the validity of any rule filed or adopted prior to
13 July 2, 1998, if it fully complied with the provisions of chapter 536, RSMo. This
14 section and chapter 536, RSMo, are nonseverable and if any of the powers vested
15 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
16 effective date or to disapprove and annul a rule are subsequently held
17 unconstitutional, then the grant of rulemaking authority and any rule proposed

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 or adopted after July 2, 1998, shall be invalid and void.

19 3. The office of administration is authorized to administer the fund and
20 to distribute the moneys in the wireless service provider enhanced 911 service
21 fund for approved expenditures as follows:

22 (1) For the reimbursement of actual expenditures for implementation of
23 wireless enhanced 911 service by wireless service providers in implementing
24 Federal Communications Commission order 94-102; and

25 (2) To subsidize and assist the public safety answering points based on a
26 formula established by the office of administration **and the director of the**
27 **department of public safety or his or her designee**, which [may] shall
28 include, but is not limited to the following:

29 (a) The volume of wireless 911 calls received by each public safety
30 answering point;

31 (b) The population of the public safety answering point jurisdiction;

32 (c) The number of wireless telephones in a public safety answering point
33 jurisdiction by zip code; and

34 (d) Any other criteria found to be valid by the office of administration
35 [provided that of the total amount of the funds used to subsidize and assist the
36 public safety answering points, at least ten percent of said funds shall be
37 distributed equally among all said public safety answering points providing said
38 services under said section];

39 (3) For the reimbursement of actual expenditures for equipment for
40 implementation of wireless enhanced 911 service by public safety answering
41 points to the extent that funds are available, provided that [ten percent of funds
42 distributed to public safety answering points shall be distributed in equal
43 amounts to each public safety answering point participating in enhanced 911
44 service] **no more than:**

45 (a) **One public safety answering point shall receive funding in**
46 **each county of the third classification;**

47 (b) **Two public safety answering points shall receive funding**
48 **under this section in each county of the first or second classification;**
49 **and**

50 (c) **Three public safety answering points shall receive funding**
51 **under this section in each county having a charter form of government;**

52 (4) Notwithstanding any other provision of the law, no proprietary
53 information submitted pursuant to this section shall be subject to subpoena or

54 otherwise released to any person other than to the submitting wireless service
55 provider, without the express permission of said wireless service
56 provider. General information collected pursuant to this section shall only be
57 released or published in aggregate amounts which do not identify or allow
58 identification of numbers of subscribers or revenues attributable to an individual
59 wireless service provider.

60 4. Wireless service providers are entitled to retain one percent of the
61 surcharge money they collect for administrative costs associated with billing and
62 collection of the surcharge.

63 5. No more than five percent of the moneys in the fund, subject to
64 appropriation by the general assembly, shall be retained by the office of
65 administration for reimbursement of the costs of overseeing the fund and for the
66 actual and necessary expenses of the board.

67 6. The office of administration **and the director of public safety or**
68 **his or her designee** shall review the distribution formula once every year and
69 may adjust the amount of the fee within the limits of this section, as determined
70 necessary.

71 7. The provisions of sections 190.307 and 190.308 shall be applicable to
72 programs and services authorized by sections 190.400 to 190.440.

73 8. Notwithstanding any other provision of the law, in no event shall any
74 wireless service provider, its officers, employees, assigns or agents, be liable for
75 any form of civil damages or criminal liability which directly or indirectly result
76 from, or is caused by, an act or omission in the development, design, installation,
77 operation, maintenance, performance or provision of 911 service or other
78 emergency wireless two- and three-digit wireless numbers, unless said acts or
79 omissions constitute gross negligence, recklessness or intentional
80 misconduct. Nor shall any wireless service provider, its officers, employees,
81 assigns, or agents be liable for any form of civil damages or criminal liability
82 which directly or indirectly result from, or is caused by, the release of subscriber
83 information to any governmental entity as required under the provisions of this
84 act unless the release constitutes gross negligence, recklessness or intentional
85 misconduct.

190.440. 1. The office of administration shall not be authorized to
2 establish a fee pursuant to the authority granted in section 190.430 unless a
3 ballot measure is submitted and approved by the voters of this state. The ballot
4 measure shall be submitted by the secretary of state for approval or rejection at

5 the general election held and conducted on the Tuesday immediately following the
6 first Monday in November, [1998] **2010**, or at a special election to be called by
7 the governor on the ballot measure. If the measure is rejected at such general or
8 special election, the measure may be resubmitted at each subsequent general
9 election, or may be resubmitted at any subsequent special election called by the
10 governor on the ballot measure, until such measure is approved.

11 2. The ballot of the submission shall contain, but is not limited to, the
12 following language:

13 Shall the Missouri Office of Administration be authorized to establish a
14 fee of up to [fifty] **twenty-five** cents per month to be charged every wireless
15 telephone number for the purpose of funding wireless enhanced 911 service?

16 YES NO

17 If you are in favor of the question, place an "X" in the box opposite "Yes". If you
18 are opposed to the question, place an "X" in the box opposite "No".

19 3. If a majority of the votes cast on the ballot measure by the qualified
20 voters voting thereon are in favor of such measure, then the office of
21 administration shall be authorized to establish a fee pursuant to section 190.430,
22 and the fee shall be effective on January 1, [1999] **2011**, or the first day of the
23 month occurring at least thirty days after the approval of the ballot measure. If
24 a majority of the votes cast on the ballot measure by the qualified voters voting
25 thereon are opposed to the measure, then the office of administration shall have
26 no power to establish the fee unless and until the measure is approved.

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