

Enrolled House Bill 2168

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Oregon Military Department)

CHAPTER

AN ACT

Relating to 9-1-1 communications; amending ORS 401.706, 401.710, 401.715, 401.720, 401.730, 401.755, 401.765, 401.770, 401.773, 401.775, 401.780, 401.785, 401.790, 401.792, 401.798, 401.800, 401.802, 401.804, 401.806, 401.808, 401.814, 401.821, 401.827, 401.832, 401.833, 401.834, 401.836, 401.838, 401.839, 401.841, 401.842, 401.844, 401.847 and 401.857 and section 13, chapter 671, Oregon Laws 1987; and repealing ORS 401.735.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 401.706 is amended to read:

401.706. It is the policy of the State of Oregon to:

- (1) Encourage and support the rapid deployment of broadband telecommunications services in areas of the state *[where such]* **in which the services do not exist**, *[to]*;
- (2) Support redundancy of critical telecommunications assets in order to ensure homeland security protections in the state; and *[to]*
- (3) Ensure that a secure conduit is available for emergency communications and public safety networks in all Oregon communities.

SECTION 2. ORS 401.710 is amended to read:

401.710. As used in ORS 305.823 and 401.710 to 401.816, unless the context requires otherwise:

- (1) "Account" means the Emergency Communications Account.
- (2) "Central office" means a utility that houses the switching and trunking equipment serving telephones in a defined area.
- (3) "Department" means the Department of Revenue.
- (4) "Emergency call" means a telephone request that results from a situation *[where]* **in which** prompt service is essential to preserve human life or property.
- (5) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network, database and on-premises equipment that provides automatic display *[at]* **of the incoming telephone number and address in** the designated public safety answering point *[of the address and telephone number]* at the time of receiving an incoming 9-1-1 call.
- (6) "Exchange access services" means:
 - (a) Telephone exchange access lines or channels that provide local access by a subscriber in this state to the local telecommunications network to effect the transfer of information; and
 - (b) Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph (a) of this subsection.

(7) "Governing body" means the board of county commissioners of a county, city council of a city, other governing body of a city or county, board of directors of a special district or a 9-1-1 jurisdiction.

(8) "Local government" has the meaning given that term in ORS 190.710.

(9) "Provider" means a utility or other vendor or supplier of telecommunications service or equipment that provides telecommunications with access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

(10) "Public or private safety agency" means any unit of state or local government, a special-purpose district or a private firm that provides or has authority to provide fire-fighting, police, ambulance or emergency medical services.

(11) "Public safety answering point" means a 24-hour communications facility established as an answering location for 9-1-1 calls originating within a given service area. A "primary public safety answering point" receives all calls directly from the public. A "secondary public safety answering point" only receives calls from a primary public safety answering point on a transfer or relay basis.

(12) "Subscriber" means a person who has telecommunication access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

(13) "TTY" means a telephone-typewriter used by *[a person]* **an individual** with a hearing or speech impairment to communicate with another device or individual.

(14) "Utility" means a utility, as defined in ORS 759.005, a telecommunications carrier, as defined in ORS 133.721, *[or]* a municipality or any provider of exchange access services.

(15) "Vendor" means *[any corporation, company, individual or association,]* **a person** providing telephone customer premises equipment or equipment specific to the operation of enhanced 9-1-1 telephone service.

(16) "9-1-1 emergency reporting system" means a telephone service that provides the users of a public telephone system the ability to reach a primary public safety answering point by calling 9-1-1.

(17) "9-1-1 jurisdiction" means:

(a) An entity created under ORS chapter 190[.];

(b) A county service district established under ORS chapter 451 to provide an emergency communications system[.];

(c) An emergency communications district created under ORS 401.818 to 401.857; or

(d) A group of public or private safety agencies who have agreed in writing to jointly plan the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

(18) "9-1-1 service area" means the geographical area that contains the entire central office serving area from which the primary public safety answering point will have the capability to answer calls placed to 9-1-1.

SECTION 3. ORS 401.715 is amended to read:

401.715. *[No provider or any subsidiary of a provider or any other person that supplies 9-1-1 emergency reporting system equipment, or enhanced 9-1-1 telephone service equipment or services, or the employees or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof, shall]* **A provider or a 9-1-1 jurisdiction or the employees or agents of a provider or a 9-1-1 jurisdiction may** be held civilly liable for the installation, performance, provision or maintenance of a 9-1-1 emergency reporting system or enhanced 9-1-1 telephone service if the provider[, *subsidiary or other supplier, or the employees or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof,*] **or the 9-1-1 jurisdiction or the employees or agents of the provider or the 9-1-1 jurisdiction** act *[without]* **with** willful or wanton conduct. *[Nothing in this section shall]* **This section does not** affect any liability a 9-1-1 jurisdiction may have for operator or operator-supervisor negligence in receiving calls from the public and *[rendering dispatch]* **dispatching emergency** services to the public.

SECTION 4. ORS 401.720 is amended to read:

401.720. (1) The primary emergency telephone number within the state *[shall be]* **is** 9-1-1, but a public or private safety agency shall maintain both a separate *[seven]* **10**-digit secondary emergency

number for use by the telephone company operator and a separate [seven] 10-digit nonemergency number.

(2) Every public and private safety agency in this state shall **establish or** participate in a 9-1-1 emergency reporting system.

(3) [No] **An** emergency telephone number other than 9-1-1 [shall] **may not** be published on the top three-quarters of the emergency listing page of a telephone book. However, an alternative non-emergency telephone number for a 9-1-1 jurisdiction may be printed on the top three-quarters of the emergency listing page of a telephone book. The **publisher may use the** remainder of the page [may be used] to list the Oregon Poison Center, Federal Bureau of Investigation, a designated mental health crises service and United States Coast Guard, where applicable. If there is more than one mental health crises service in a jurisdiction, the county health department shall decide which mental health crises service [to] **the publisher may** list by using the criteria of a 24-hour staffed service, nonprofit organization[,] and non-9-1-1 participating agency. [Referral] **The publisher shall refer** to the community services section [will be made] for other numbers.

(4) The 9-1-1 emergency reporting system [shall] **must** include at a minimum:

(a) A primary public safety answering point **that is** automatically accessible anywhere in the 9-1-1 jurisdiction service area by calling 9-1-1;

(b) Central dispatch of public and private safety services in the 9-1-1 service area or relay or transfer of 9-1-1 calls to an appropriate public or private safety agency; and

(c) Two 9-1-1 circuits from each [utility] central office to each primary public safety answering point.

(5) [Every public and private safety agency in this state shall establish or participate in a 9-1-1 emergency reporting system using enhanced 9-1-1 telephone service before January 1, 2000.] In addition to the requirements set forth in subsection (4) of this section, enhanced 9-1-1 telephone service [shall include] **must provide:**

(a) Two call-taker stations [with staffing required for one] **and staffing for at least one of the stations at all times;**

(b) Automatic display [at] **of the incoming telephone number and address in** the designated public safety answering point [of the address and telephone number] at the time of receiving an incoming 9-1-1 call;

(c) A network [which is] developed to transport address and telephone number information to the designated public safety answering point automatically [upon a person placing a call] **when a call is placed** to 9-1-1; and

(d) Emergency telephone service in which [no more than] one [call] **or fewer calls** in 100 attempts [will] receive a busy signal on the first attempt during the average busiest hour [or a minimum of two 9-1-1 circuits to the primary public safety answering point]. **A public safety answering point may not have fewer than two 9-1-1 circuits.**

SECTION 5. ORS 401.730 is amended to read:

401.730. (1) The Office of Emergency Management shall:

(a) Adopt rules in accordance with ORS chapter 183 relating to the planning, administration and funding of 9-1-1 emergency reporting systems established pursuant to ORS 401.720.

(b) [Upon] **Assist, at the** request of a 9-1-1 jurisdiction, local government or governing body, [assist] in planning 9-1-1 emergency reporting systems[. In addition, the office may] **or may,** at the request of a 9-1-1 jurisdiction, act as an agent of the 9-1-1 jurisdiction for the purposes of purchasing and maintaining equipment and services required to fulfill the requirements of ORS 401.720.

(c) Report biennially to the Legislative Assembly the progress made in implementing ORS 305.823 and 401.710 to 401.816[. The report shall include], **including in the report:**

(A) Financial information concerning [all] **the** revenues collected, distributed and expended by state agencies and 9-1-1 jurisdictions[, and all account and subaccount balances,] for the purposes of complying with ORS 401.710 to 401.816; **and**

(B) Account and subaccount balances.

[2] *Notwithstanding subsection (1) of this section, the office shall not require by rule or otherwise that the proposed or established 9-1-1 emergency reporting system of a 9-1-1 jurisdiction meet any technical standards in addition to those provided in ORS 401.720.*

[3] (2) The office may establish advisory committees and study groups to study and advise on:

- (a) The planning and administration of 9-1-1 emergency reporting systems[,];
- (b) Multijurisdictional 9-1-1 emergency reporting systems; and
- (c) Issues impacting 9-1-1 emergency reporting systems throughout the state.

NOTE: Section 6 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 7. ORS 401.755 is amended to read:

401.755. (1) Each 9-1-1 jurisdiction shall submit to the Office of Emergency Management in writing within 30 days any change [*made*] to the 9-1-1 emergency telephone system [*which*] **that** alters the final plan or system description on file with the office. [*Such*] **The** changes may include, but are not limited to[,]:

- (a) The address of the public safety answering point[,];
- (b) Telephone numbers used to satisfy requirements set forth in ORS 401.720[,];
- (c) Director changes[,];
- (d) Agencies served by the 9-1-1 jurisdiction; and
- (e) **The** method used to direct the 9-1-1 call once received by the primary public safety answering point.

(2) If an established 9-1-1 jurisdiction proposes to move its 9-1-1 emergency reporting system from one public safety answering point to another or a governing body proposes to establish a new 9-1-1 jurisdiction with a new primary public safety answering point and if either of these proposals will result in control of the 9-1-1 emergency reporting system by an agency or agencies other than as identified in the final plan approved by the office under ORS 401.750 (1987 Replacement Part), section 7, chapter 743, Oregon Laws 1991, or the system description filed with the office under ORS 401.750 (5) (1987 Replacement Part), the 9-1-1 jurisdiction or governing body shall submit a plan setting forth these changes to:

- (a) The Office of Emergency Management;
- (b) Public and private safety agencies in the 9-1-1 service area; and
- (c) Utilities which provide telephone service in the 9-1-1 service area.

(3) In addition to meeting the requirements of ORS 401.720 and rules adopted pursuant to ORS 401.730, the **revised final** plan [*shall include a description of all*] **must describe the** capital and recurring costs for the proposed 9-1-1 emergency reporting system.

(4) The office shall review the revised **final** plan for compliance with this section, ORS 401.720 and rules adopted pursuant to ORS 401.730 and, if the office determines that the plan is in compliance, [*the office shall*] approve the plan.

(5) The office [*shall*] **may** not approve a **revised final** plan submitted under this section unless the plan is accompanied by written approval of the governing bodies of all public and private safety agencies affected by or providing service in the 9-1-1 service area.

SECTION 8. ORS 401.765 is amended to read:

401.765. (1) Each telecommunications utility [*or municipality*] that provides exchange access service or radio communications service and that provides automatic telephone number identification to public safety answering points may not block the number of the calling party from being forwarded on 9-1-1 calls.

(2) Automatic telephone number identifications received by public safety answering points are confidential and are not subject to public disclosure unless and until an official report is written by the public or private safety agency and that agency does not withhold the telephone number under ORS 192.410 to 192.505 or other state and federal laws. [*Nonpublished and nonlisted telephone numbers may not be included in official reports of public safety answering points and public and private safety agencies or otherwise be subject to public disclosure without the permission of the subscriber.*] **The official report of a public safety answering point may not include nonpublished**

or nonlisted telephone numbers. The official report of a public or private safety agency may not include nonpublished or nonlisted telephone numbers. Nonpublished or nonlisted telephone numbers are not otherwise subject to public disclosure without the permission of the subscriber.

(3) *[Any telecommunications utility that in good faith provides]* **A telecommunications utility is not subject to an action for civil damages for providing in good faith** confidential or non-public information, including nonpublished and nonlisted subscriber information, to emergency services providers who are responding to emergency calls placed to a 9-1-1 or an enhanced 9-1-1 emergency reporting system or notifying the public of an emergency *[is not subject to an action for civil damages as a result thereof. Nothing in this subsection compels]*. **This subsection does not compel** a telecommunications utility to provide nonpublished and nonlisted subscriber information directly to emergency services providers or law enforcement agencies prior to placement of an emergency call to a 9-1-1 or an enhanced 9-1-1 emergency reporting system without process of law. *[Any]* Subscriber information acquired by a 9-1-1 jurisdiction for the purpose of enhancing a 9-1-1 emergency reporting system is not subject to public disclosure and may not be used by other public agencies except:

(a) To respond to a 9-1-1 call; or

(b) *[If a telecommunications utility provides subscriber information to a 9-1-1 jurisdiction or emergency services provider, the 9-1-1 jurisdiction or emergency services provider may use the information]* To notify the public of an emergency by utilizing an automated telephone notification system **if a telecommunications utility has provided subscriber information to the 9-1-1 jurisdiction or emergency services provider.**

SECTION 9. ORS 401.770 is amended to read:

401.770. *[Any person, partnership, corporation, company or association which]* **A person that** provides telephone service through a coin or credit card operated pay station telephone in an area served by a 9-1-1 emergency reporting system established pursuant to ORS 401.720 shall convert every coin or credit pay station telephone to permit calling 9-1-1 and “O”-operator without depositing a coin or *[other charge to]* **charging** the caller. *[Conversion shall be completed at or before the time the 9-1-1 emergency reporting system is operational.]*

SECTION 10. ORS 401.773 is amended to read:

401.773. All public safety answering points *[shall]* **must** be capable of receiving 9-1-1 emergency calls from *[persons]* **individuals** with hearing or speech impairments through a TTY.

SECTION 11. ORS 401.775 is amended to read:

401.775. Each 9-1-1 jurisdiction *[shall]* **must** have a disaster recovery plan *[prepared]* for its 9-1-1 emergency reporting system *[by January 1, 1992]*. The disaster recovery plan *[shall]* **must** include at a minimum:

(1) Recovery procedures for service *[which]* **that** is interrupted from the serving central office to and including the primary public safety answering point and corresponding secondary public safety answering points. This may include, but is not limited to, a hard-wired alternative route or a plan on file with the provider designating alternative routes or answering points.

(2) A plan to switch public safety answering point operations to an alternate site in the event the primary public safety answering point becomes inoperable.

(3) 24-hour emergency numbers for the providers serving the 9-1-1 jurisdiction.

SECTION 12. ORS 401.780 is amended to read:

401.780. Public or private safety agencies may enter into agreements *[which provide that]* **requiring that** an emergency unit dispatched by a 9-1-1 emergency reporting system established pursuant to ORS 401.720 *[shall]* **must** render emergency services without regard to jurisdictional boundaries.

SECTION 13. ORS 401.785 is amended to read:

401.785. (1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety agency regarding a 9-1-1 system, *[not otherwise]* **must be mediated if the dispute cannot be** resolved in accordance with a written agreement *[shall be mediated]*. When a governing body or 9-1-1

jurisdiction obtains knowledge that a dispute exists and cannot be resolved by the agencies, it shall notify the Office of Emergency Management of the dispute in writing. Within 30 days of this notification, the disputing agencies shall mutually select a mediator and notify the office in writing of this selection. If a mediator is not mutually selected by the agencies within this period, the Director of the Office of Emergency Management shall select a mediator from the list of mediators established under subsection (3) of this section. Once selected, the mediator shall establish a schedule for the mediation process. The disputing agencies shall *[have]* **resolve the dispute within** 60 days from the date the mediator is agreed upon or selected *[to mediate the dispute]* unless the agencies mutually agree in writing to an extension of this deadline. A copy of all extensions *[shall]* **must** be submitted to the office.

(2) When the mediation process in subsection (1) of this section ends, the mediator shall notify the office in writing of the outcome of the mediation. If the agencies are not able to resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or private safety agency or agencies shall submit the dispute to arbitration. The agencies shall *[have]* **select an arbitrator within** 30 days from the end of the mediation *[to select an arbitrator]*. If the disputing agencies are unable to mutually select an arbitrator within this period, the director shall request the presiding judge for the judicial district in which the 9-1-1 system is located to select an arbitrator. The arbitrator shall *[have 30 days from selection to]* hear and decide the dispute **within 30 days from selection** unless the agencies mutually agree in writing to an extension of this deadline. A party to an arbitration under this subsection may seek confirmation, vacation, modification or correction of the arbitrator's decision as provided in ORS 36.700, 36.705 and 36.710. A court may vacate a decision only if there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d). The court may modify or correct a decision only for the grounds given in ORS 36.710.

(3) The office shall establish a roster of mediators qualified to mediate disputes under subsection (1) of this section. This list may be used by the disputing agencies when selecting a mediator.

(4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the mediator's or arbitrator's fees, *[shall]* **must** be divided equally among the disputing agencies.

SECTION 14. ORS 401.790 is amended to read:

401.790. (1) The Office of Emergency Management may institute proceedings against a public or private safety agency, a 9-1-1 jurisdiction or other person to compel compliance with or to restrain further violation of ORS 305.823 and 401.710 to 401.816 or rules adopted pursuant to ORS 401.730.

(2) Proceedings authorized by subsection (1) of this section may be instituted without *[office]* **official** notice, hearing or order provided in ORS chapter 183; *provided,*. However, *[that]* proceedings brought against a telecommunications utility *[shall]* **must** be brought before the Public Utility Commission as provided by ORS chapter 756.

SECTION 15. ORS 401.792 is amended to read:

401.792. (1) There is imposed on each paying retail subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system a tax equal to 75 cents per month. The tax *[shall]* **must** be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line *[shall]* **must** be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity or ownership of customer premises equipment connected to each circuit. For providers of central office based services, the tax *[shall]* **must** be applied to each line that has unrestricted connection to the switched network. Those central office based service lines that have restricted connection to the switched network *[shall]* **must** be charged based on software design in the central office that restricts the number of station calls to and from the network. For cellular, wireless or other radio common carriers, the tax *[shall apply]* **applies** on a per instrument basis and only if the subscriber's place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

(2) The subscriber *[shall be]* **is** liable for the tax imposed by this section.

(3) The amounts of tax collected by the provider [*shall be*] **are** considered as payment by the subscriber for that amount of tax.

(4) Any return made by the provider collecting the tax [*shall*] **must** be accepted by the Department of Revenue as evidence of payments by the subscriber of amounts of tax so indicated upon the return.

SECTION 16. ORS 401.798 is amended to read:

401.798. (1) The provider is responsible for collecting the tax under ORS 401.792 and shall file a return with the Department of Revenue on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due for access to the 9-1-1 emergency reporting system during the quarter. The department shall prescribe the form of the return required by this section and ORS 401.796. The rules of the department [*shall*] **must** require that returns be made under penalties for false swearing.

(2) When a return of the tax is required under ORS 401.796 or subsection (1) of this section, the provider required to make the return shall remit the tax due to the department at the time fixed for filing the return.

(3) A provider described in subsection (1) of this section may elect to pay the tax based on either of the following:

(a) The amount of tax actually collected during the quarter; or

(b) The net amount of tax billed during the quarter. The net amount billed equals the gross amount of tax billed less adjustments for uncollectible accounts, refunds, incorrect billings and other appropriate adjustments.

(4) Once a provider has made an election under subsection (3) of this section, the provider may not change the method of payment and reporting unless the provider first obtains the permission of the department.

SECTION 17. ORS 401.800 is amended to read:

401.800. (1) If the amount paid by the provider to the Department of Revenue under ORS 401.798 exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate established under ORS 305.220 for each month or fraction of a month from the date of payment of the excess until the date of the refund. [*No refund shall be made*] **The department may not make a refund** to a provider who fails to claim the refund within two years after the due date for filing of the return with respect to which the claim for refund relates.

(2) A subscriber's exclusive remedy in a dispute involving tax liability [*shall be*] **is** to file a claim with the department.

SECTION 18. ORS 401.802 is amended to read:

401.802. (1) Every provider required to collect the tax imposed by ORS 401.792 to 401.804 [*shall be*] **is** deemed to hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided by ORS 401.798.

(2) [*At any time*] **If** the provider required to collect the tax fails to remit any amount deemed to be held in trust for the State of Oregon or if the subscriber fails to pay the tax, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. [*Such warrant shall be*] **The warrant is** issued and proceeded upon in the same manner and [*shall have*] **has** the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

SECTION 19. ORS 401.804 is amended to read:

401.804. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, [*shall*] apply to ORS 401.792 to 401.804 the same as if the tax were a tax imposed upon or measured by net income. [*All such*] **The** provisions apply to the subscriber liable for the tax and to the provider required to collect the tax. As to any amount collected and required to be remitted to the Department of Revenue, the tax [*shall be*] **is**

considered a tax upon the provider required to collect the tax and that provider *[shall be]* **is** considered a taxpayer.

SECTION 20. ORS 401.806 is amended to read:

401.806. (1) The Emergency Communications Account is established separate and distinct from the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to ORS 401.792 to 401.804 and interest thereon *[shall]* **must** be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance of the moneys received *[shall]* **must** be paid into the State Treasury and credited to the Emergency Communications Account. All earnings on investment of moneys in the Emergency Communications Account *[shall]* accrue to that account. All moneys in the account are appropriated continuously to the Office of Emergency Management and *[shall]* **must** be used for the purposes described in ORS 401.808.

(2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Thirty-five percent of the amount in the Emergency Communications Account on the date of distribution *[shall]* **must** be credited to the Enhanced 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and *[shall]* **must** be used for the purposes described in ORS 401.808 (3), (4) and (5).

[(3) The Enhanced 9-1-1 Equipment Replacement Subaccount is established as a subaccount of the Emergency Communications Account. Two and one-half percent of the amount in the Emergency Communications Account shall be credited to the Enhanced 9-1-1 Equipment Replacement Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808 (7).]

SECTION 21. ORS 401.808 is amended to read:

401.808. (1) The Office of Emergency Management shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account beginning in June 1982. The office shall pay the following amounts from the account:

[(1)] (a) Administrative costs incurred during the preceding calendar quarter by the Department of Revenue in carrying out ORS 401.792 to 401.804. *The amount paid to the department shall* **in an amount that does** not exceed one-half of one percent of the amount in the account on the date of distribution, or actual expenses incurred by the department, whichever is less.

[(2)] (b) Administrative costs incurred during the preceding calendar quarter by the Office of Emergency Management in carrying out its duties under ORS 305.823 and 401.710 to 401.816. *The amount paid to the office shall* **in an amount that does** not exceed four percent of the amount in the account on the date of distribution, or actual expenses incurred by the office, whichever is less. *[The office may provide funding under this subsection for the Oregon Emergency Response System in an amount not to exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System. Funding provided to the Oregon Emergency Response System under this subsection shall be in the manner prescribed by the office and shall be subject to the availability of funds for such funding.]*

(2) The office may:

(a) Provide funding for the Oregon Emergency Response System in an amount that does not exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System subject to availability of funds within the limit for administrative costs in subsection (1)(b) of this section.

(b) Prescribe the manner in which funding is provided to the Oregon Emergency Response System under this subsection.

(3) The office shall use funds in the Enhanced 9-1-1 Subaccount *[shall be used]* to pay for costs incurred during the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS 401.720. **The office may not disburse funds in the** Enhanced 9-1-1 Subaccount *[funds shall not be disbursed]* to a 9-1-1 jurisdiction *[which]* **that** does not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991. *[Payments shall be made]* **The office shall make payments for reimbursement** only after a reimbursement request has been submitted

to the office [of *Emergency Management*] in the manner prescribed by the office. Reimbursement requests for recurring and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 401.720 [shall] **must** be submitted directly to the office [of *Emergency Management*]. The costs [payable under this section] **reimbursable under this subsection** are only those incurred for:

- (a) Modification of central office switching and trunking equipment;
- (b) Network development, operation and maintenance;
- (c) Database development, operation and maintenance;
- (d) On-premises equipment procurement, maintenance and replacement;
- (e) Conversion of pay station telephones required by ORS 401.770;
- (f) Collection of the tax imposed by ORS 401.792 to 401.804; and
- (g) Addressing if the reimbursement request is consistent with rules adopted by the office.

(4) **Subject to availability of funds, the office shall provide funding to** 9-1-1 jurisdictions [who] **that** have enhanced 9-1-1 telephone service operational prior to December 31, 1991, [shall receive funding] based on cost information provided in their final plan required in section 7, chapter 743, Oregon Laws 1991. **The office shall approve final** plans submitted [which] **that** meet the minimum requirements set forth in ORS 401.720 (2) and (4) [shall be approved]. **The office shall limit** funding for costs incurred prior to the preceding calendar quarter [shall be limited] to charges associated with database development, network and on-premises equipment [which satisfy] **that satisfies** the requirements of ORS 401.720 (2) and (4). [Funding under this section shall be in the manner prescribed by the office and subject to the availability of funds therefor.] **The office shall prescribe the manner in which funding is provided under this subsection.**

(5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described in ORS 401.806 to repay loans from the Special Public Works Fund if the loans were used for purposes that are allowable under ORS 401.710 to 401.816.

(6) [Any] **The office shall retain** amounts remaining in the Enhanced 9-1-1 Subaccount [shall be retained by the Office of Emergency Management and may be distributed in any] **and may distribute the amounts in a** subsequent quarter for those purposes set forth in subsections (3), (4) and (5) of this section.

[(7) *The Enhanced 9-1-1 Equipment Replacement Subaccount shall be used by the Office of Emergency Management to provide funds to replace and upgrade equipment to carry out the provisions of ORS 401.710 to 401.816. If at any time unexpended and unobligated balances in the subaccount exceed \$500,000, such excess amount shall be transferred and credited to the Emergency Communications Account and shall be used for the purposes otherwise provided by law.*]

[(8)] (7) The office shall review reimbursement requests for modification of central office switching and trunking equipment, conversion of pay station telephones, and network development, operation and maintenance costs necessary to comply with ORS 401.720 for the appropriateness of the costs claimed. The office shall approve or disapprove the reimbursement requests.

[(9)] (8) The office shall review reimbursement requests for database development, operation and maintenance, and on-premises equipment procurement, maintenance and replacement costs necessary to comply with ORS 401.720 for the appropriateness of the costs claimed.

[(10)] (9) After all amounts under subsections (1) and (2) of this section and ORS 401.806 (2) [and (3)] have been paid, the **office shall distribute the** balance of the Emergency Communications Account [shall be distributed] to cities on a per capita basis and to counties on a per capita basis of each county's unincorporated area[,] for distribution to 9-1-1 jurisdictions within the city or county[, but]. **However,** each county [shall] **must** receive a minimum of one percent of the balance of the account after the amounts under subsections (1) and (2) of this section and ORS 401.806 (2) [and (3)] have been paid. A **city or county shall pay each** 9-1-1 jurisdiction whose 9-1-1 service area includes [more than one city or county shall receive funds from each city or county involved] **all or part of the city or county.**

[(11)] (10) Notwithstanding subsection [(10)] (9) of this section, a city or county may have its quarterly distribution made payable and sent to the 9-1-1 jurisdiction responsible for providing the services required in ORS 401.720.

[(12)] (11) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report [shall] **must** be provided in the manner prescribed by the office[, and shall] **and must** include but not be limited to:

(a) Funds received and expended under subsection [(10) or (11)] (9) or (10) of this section for the purposes of fulfilling the requirements of ORS 401.720;

(b) Local funds received and expended for the purposes of fulfilling the requirements of ORS 401.720; and

(c) Local funds received and expended for the purposes of providing emergency communications services.

SECTION 22. ORS 401.814 is amended to read:

401.814. (1) Except as provided in subsection (2) of this section and rules adopted under ORS 401.730 (1)(a), moneys received under ORS 401.808 [(10)] (9) may be used only to pay for planning, installation, maintenance, operation and improvement of a 9-1-1 emergency reporting system as it relates to getting the call from the [citizen] **member of the public** to the primary public safety answering point and in transmitting the information from the primary public safety answering point to the secondary public safety answering point or responding police, fire, medical or other emergency unit by telephone, radio or computerized means.

(2) Moneys not then being used may be invested by a city or county. The income from the investments [shall] **must** be used for the purposes described in subsection (1) of this section.

SECTION 23. ORS 401.821 is amended to read:

401.821. (1) A 9-1-1 communications district may be created as provided in ORS 198.705 to 198.955 and 401.818 to 401.857.

(2) A 9-1-1 communications district [shall consist of all] **consists of** the telephone exchange service areas located wholly or partly within a designated 9-1-1 jurisdiction's service area that is served by a public safety answering point. A district may include more than one city and county.

(3) Before a petition for formation of a district is filed with the county board of the principal county under ORS 198.800, [it shall] **the petition must** be approved by indorsement thereon by two-thirds of the governing bodies of all public or private safety agencies representing two-thirds of the population included within the proposed district. A county governing body [shall] **may** not adopt an order under ORS 198.835 for the formation of a district unless the governing body first obtains written approval for the formation of the district from two-thirds of the governing bodies of all public or private safety agencies representing two-thirds of the population included within the proposed district.

(4) In addition to other required matters, the petition for formation [shall] **must** state the number of district board members for the proposed district and the method of election of the board of the proposed district from among the methods described in ORS 401.836.

SECTION 24. ORS 401.827 is amended to read:

401.827. (1) The district board [shall be] **is** the governing body of the district and shall exercise all powers thereof.

(2) At its first meeting or as soon thereafter as may be practicable, the board shall choose one of its members as president.

SECTION 25. ORS 401.832 is amended to read:

401.832. (1) Five or seven district board members, determined by the number of board members set forth in the petition for formation, [shall] **must** be elected at the election for district formation. Nominating petitions [shall] **must** be filed with the county governing body.

(2) When the petition for formation provides for a five-member district board, if the effective date of the formation of the district occurs in an odd-numbered year, two district board members [shall] **must** be elected for four-year terms and the other three district board members [shall] **must** be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, two district board members [shall] **must** be elected for three-year terms and the other three district board members [shall] **must** be elected for one-year terms.

(3) When the petition for formation provides for a seven-member district board, if the effective date of the formation of the district occurs in an odd-numbered year, three district board members *[shall]* **must** be elected for four-year terms and the other four district board members *[shall]* **must** be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, three district board members *[shall]* **must** be elected for three-year terms and the other four district board members *[shall]* **must** be elected for one-year terms.

(4) Each district board member shall hold office until election and qualification of a successor.

(5) Each district board member elected shall take an oath of office and shall hold office from July 1, next following election.

(6) The district board shall fill any vacancy on the board as provided in ORS 198.320.

(7) Except as otherwise provided in this section or in ORS 401.833, the term of a district board member is four years.

(8) The terms of the members first elected to a district board *[shall]* **must** be determined by lot.

SECTION 26. ORS 401.833 is amended to read:

401.833. *[(1) This section establishes the procedure for determining the following questions:]*

[(a) Whether a district having a five-member board shall increase the number of members to seven.]

[(b) Whether a district having a seven-member board shall decrease the number of members to five.]

[(2)] (1) The question of increasing or decreasing the membership of the district board *[shall]* **must** be determined at a regular district election. The district board, by resolution, may order the question to be submitted to the electors of the district. **If a petition is filed with the secretary of the board requesting that the electors of the district be permitted to vote on the question,** the district board shall order the question to be submitted to the electors *[when a petition is filed with the secretary of the board requesting that the electors of the district be permitted to vote on the question]*. The requirements for preparing, circulating and filing the petition *[shall be]* **are** as provided for an initiative petition in ORS 255.135 to 255.205. The board *[shall be]* **is** increased to seven members or decreased to five members if a majority of the votes cast on the question favors the increase or decrease. At an election to increase the membership, electors shall vote for candidates to fill the additional positions.

[(3)] (2) When a district is situated entirely within one county, if the electors approve the increase or decrease in board membership, not later than the 30th day after the election, the district board shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The district board shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836.

[(4)] (3) When a district includes territory in more than one county, not later than the 40th day before the regular district election at which a question under this section will be submitted, the district elections authority shall notify the Secretary of State. If the electors favor the increase or decrease in board membership, not later than the 30th day after the election, the Secretary of State by rule shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The Secretary of State shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836.

SECTION 27. ORS 401.834 is amended to read:

401.834. When a district expands the membership of its district board from five to seven members or reduces the membership of its board from seven to five members:

(1) If the board is reduced to five members, at least two members *[shall]* **must** be elected at each regular district election.

(2) If the board is expanded to seven members, at least three members *[shall]* **must** be elected at each regular district election.

SECTION 28. ORS 401.836 is amended to read:

401.836. (1) The district board members may be elected in one of the following methods:

(a) Elected by the electors of the district from zones as nearly equal in population as possible according to the latest federal census. Each elector of the district *[shall be]* **is** entitled to vote for candidates for election from all the zones in the district.

(b) Elected by the electors of the district from zones as nearly equal in population as possible according to the latest federal census. Each elector of the district *[shall be]* **is** entitled to vote only for candidates for election from the zone in which the elector resides.

(c) Except for one district board member-at-large, elected by the electors of the district from zones as nearly equal in population as possible according to the latest federal census. The district board member-at-large *[shall]* **must** be elected from the entire district. Each elector of the district *[shall be]* **is** entitled to vote for the district board member-at-large and for candidates for election from the zone in which the elector resides.

(d) Elected at large by position number by the electors of the district.

(2) Candidates for election from zones *[shall]* **must** be nominated by electors of the zones. Candidates for election at large *[shall]* **must** be nominated by electors of the district.

(3) Each candidate for election from a zone *[shall]* **must** be a resident of that zone.

SECTION 29. ORS 401.838 is amended to read:

401.838. At the regular district election, successors to the board members whose terms expire *[shall]* **must** be elected as follows:

(1) In an unzoned district, if two board members are to be elected, the candidates receiving the first and second highest vote *[shall be]* **are** elected. If three or four board members are to be elected, the candidates receiving the first, second or third or first, second, third and fourth highest vote *[shall be]* **are** elected.

(2) In a district that is zoned under ORS 401.836:

(a) If a board member is to be elected by the electors of a zone, the candidate who receives the highest vote from the zone *[shall be]* **is** elected.

(b) If a board member is to be elected by the electors of the entire district, the candidate receiving the highest vote among the candidates nominated from the same zone *[shall be]* **is** elected.

SECTION 30. ORS 401.839 is amended to read:

401.839. (1) *[This section establishes the procedure for determining whether the method adopted in a district for nominating and electing board members should be changed to another method.]* The question *[shall]* **of whether to change the method adopted by the district for nominating and electing board members must** be decided by election. The district board:

(a) May order the election on its own resolution; or

(b) Shall order the election *[when]* **if** a petition is filed as provided in this section.

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section *[shall be]* **are** as provided for an initiative petition in ORS 255.135 to 255.205.

(3) If the question proposes creation of zones or a change in the boundaries of existing zones, the following requirements *[shall]* apply:

(a) The petition *[shall]* **must** contain a map indicating the proposed zone boundaries. The map *[shall]* **must** be attached to the cover sheet of the petition and *[shall]* **may** not exceed 14 inches by 17 inches in size.

(b) Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect in the ballot title *[shall]* **may** not exceed 150 words. The statement:

(A) *[Shall]* **Must** specify the method of nomination and election of board members from among the methods described in ORS 401.836.

(B) *[Shall]* **Must** include a general description of the proposed boundaries of the zones, using streets and other generally recognized features.

(c) The order calling the election *[shall]* **must** contain a map of the proposed zone boundaries and a metes and bounds or legal description of the proposed zone boundaries. The map and de-

scription [shall] **must** be prepared by the county surveyor or county assessor and [shall] **must** reflect any adjustments made in the boundaries under subsection (6) of this section.

(4) The map to be contained in the petition under subsection (3) of this section [shall] **must** be prepared by the county surveyor or county assessor. The chief petitioners shall pay the county for the cost of preparing the map, as determined by the county surveyor or county assessor. The county clerk [shall] **may** not accept the prospective petition for filing until the chief petitioners have paid the amount due.

(5) Subsection (3) of this section does not apply if the question proposes abolition of all zones.

(6) Before submitting to election a question to which subsection (3) of this section applies, the district board shall adjust the proposed boundaries of the zones to make them as nearly equal in population as feasible according to the latest federal census. The district board shall amend the ballot title as necessary to reflect its adjustment of the boundaries.

(7) If the electors of the district approve the establishment of zones or a change in the boundaries of existing zones, board members shall continue to serve until their terms of office expire. As vacancies occur, positions to be filled by nomination or election by zone [shall] **must** be filled by persons who reside within zones which are not represented on the board. If more than one zone is not represented on the board when a vacancy occurs, the zone entitled to elect a board member [shall] **must** be decided by lot.

SECTION 31. ORS 401.841 is amended to read:

401.841. A question of changing the method of nominating and electing district board members under ORS 401.839 and a question of increasing or decreasing the number of district board members under ORS 401.833 may be submitted to the electors of a district at the same regular district election. However, the questions [shall] **must** be submitted to the electors as separate questions.

SECTION 32. ORS 401.842 is amended to read:

401.842. A 9-1-1 communications district has the power:

(1) To have and use a common seal.

(2) To sue and be sued in its name.

(3) To make and accept any and all contracts, deeds, leases, releases and documents of any kind which, in the judgment of the board, are necessary or proper to the exercise of any power of the district, and to direct the payment of all lawful claims or demands.

(4) To assess, levy and collect taxes to pay:

(a) The cost of acquiring sites for and constructing, reconstructing, altering, operating and maintaining a 9-1-1 emergency reporting system [or any];

(b) A lawful [claims] **claim** against the district[,]; and

(c) The operating expenses of the district.

(5) To employ all necessary agents and assistants.

(6) To call elections after the formation of the district.

(7) To enlarge the boundaries of the district as provided by ORS 198.705 to 198.955.

(8) [Generally] To do and perform any and all acts necessary and proper to the complete exercise and effect of any of its powers or the purposes for which it was formed.

SECTION 33. ORS 401.844 is amended to read:

401.844. (1) For the purpose of carrying into effect the powers granted by ORS 401.818 to 401.857, as well as refunding outstanding obligations, a 9-1-1 communications district, when authorized by a majority of the votes cast at an election by electors of the district, may borrow money and sell and dispose of general obligation bonds.

(2) The general obligations outstanding at any one time [shall never] **may not** exceed in aggregate principal amount one percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207.

(3) The bonds [shall] **must** mature serially not more than 30 years from the issue date and [shall] **must** be issued as prescribed in ORS chapter 287A.

SECTION 34. ORS 401.847 is amended to read:

401.847. (1) Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district. The total amount of taxes levied in each year under this section [shall] **may** not exceed one-tenth of one percent (0.001) of the real market value of all taxable property within the district computed in accordance with ORS 308.207.

(2) Each year a district shall also assess, levy and collect a special tax upon all [such] property, real and personal, in an amount sufficient to pay the yearly interest and principal due on any outstanding general obligation bonds for [such] **the** year.

SECTION 35. Section 13, chapter 671, Oregon Laws 1987, as amended by section 34, chapter 333, Oregon Laws 1995, is amended to read:

Sec. 13. (1) Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district.

(2) Each year a district shall also assess, levy and collect a special tax upon all taxable property within the district in an amount sufficient to pay the yearly interest and principal due on any outstanding general obligation bonds for [such] **the** year.

SECTION 36. ORS 401.857 is amended to read:

401.857. (1) A district board shall appoint an advisory committee to advise and assist the board in carrying out the purposes of ORS 401.818 to 401.857. An advisory committee [shall consist] **consists** of one representative from each public or private safety agency included within the district. [A member] **Members** of the advisory committee [shall] **must** reside within the district.

(2) A member of an advisory committee shall serve for a term of two years. Of the members first appointed, however, one-half of the members shall serve for a term of one year. The respective terms of the members [shall] **must** be determined by lot at the first meeting of the advisory committee.

(3) The advisory committee shall meet not less than four times a year to review the policies and practices of the district board. The advisory committee shall also meet on the call of the district board. The advisory committee may adopt rules for the conduct of its proceedings.

(4) The advisory committee may propose changes to any of the board's rules, policies or practices as it deems necessary or desirable. In addition to its other functions and duties, the advisory committee shall review the annual budget of the district. The advisory committee shall meet with the district board and may make [such] recommendations relating to the budget [as] **that** the committee considers necessary or prudent.

SECTION 37. ORS 401.735 is repealed.

Passed by House March 25, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 19, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State