

# D R A F T

## SUMMARY

Establishes alternative methods for telecommunications provider to satisfy requirement to collect and remit tax on customer access to 9-1-1 emergency reporting system from prepaid telecommunications service customers. Defines terms.

Establishes Answering Point Consolidation Subaccount in Emergency Communications Account. Continuously appropriates moneys in subaccount to Office of Emergency Management for purpose of making grants to counties and cities.

Applies to monthly periods of telecommunications service that begin on or after effective date of this 2013 Act.

Extends sunset for tax on telecommunications service.

## A BILL FOR AN ACT

1  
2 Relating to 9-1-1 emergency reporting system; creating new provisions;  
3 amending ORS 403.105, 403.135, 403.200, 403.210, 403.220, 403.225 and  
4 403.230 and section 4, chapter 5, Oregon Laws 2002 (first special session);  
5 appropriating money; and providing for revenue raising that requires ap-  
6 proval by a three-fifths majority.

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

8 **SECTION 1.** ORS 403.105 is amended to read:

9 403.105. As used in ORS 305.823 and 403.105 to 403.250, unless the context  
10 requires otherwise:

11 (1) "Account" means the Emergency Communications Account **estab-**  
12 **lished under ORS 403.235.**

13 (2) "Central office" means a utility that houses the switching and trunk-  
14 ing equipment serving telephones in a defined area.

15 (3) "**Customer**" means a person that has telecommunications ser-

1 **vice with access to the 9-1-1 emergency reporting system through local**  
2 **exchange service, cellular service, fixed interconnected voice over**  
3 **Internet protocol service or other wired or wireless means.**

4 [(3)] (4) “Department” means the Department of Revenue.

5 [(4)] (5) “Emergency call” means a [*telephone*] request **for service to a**  
6 **public safety answering point that is communicated through local ex-**  
7 **change service, cellular service, fixed interconnected voice over**  
8 **Internet protocol service or other wired or wireless means and that**  
9 results from a situation in which prompt service is essential to preserve hu-  
10 man life or property.

11 [(5)] (6) “Enhanced 9-1-1 telephone service” means 9-1-1 telephone service  
12 consisting of a network, database and on-premises equipment that provides  
13 automatic display of the incoming telephone number and address in the des-  
14 ignated public safety answering point at the time of receiving an incoming  
15 9-1-1 call.

16 [(6)] (7) “Exchange access services” means:

17 (a) Telephone exchange access lines or channels that provide local access  
18 by a [*subscriber*] **customer** in this state to the local telecommunications  
19 network to effect the transfer of information; and

20 (b) Unless a separate tariff rate is charged therefor, any facility or service  
21 provided in connection with the services described in paragraph (a) of this  
22 subsection.

23 (8) **“Fixed interconnected voice over Internet protocol service”**  
24 **means a telecommunications service that utilizes an Internet protocol**  
25 **to enable a customer to participate in real-time two-way voice com-**  
26 **munication.**

27 [(7)] (9) “Governing body” means the board of county commissioners of a  
28 county, city council of a city, other governing body of a city or county, board  
29 of directors of a special district or a 9-1-1 jurisdiction.

30 [(8)] (10) “Local government” has the meaning given that term in ORS  
31 190.710.

1       **(11) “Prepaid telecommunications service” means any telecommu-**  
2 **nications service paid for by a customer prior to activation or use of**  
3 **the service.**

4       [(9)] **(12) “Provider” means a utility or other vendor or supplier of tele-**  
5 **communications service or equipment that provides telecommunications**  
6 **service with access to the 9-1-1 emergency reporting system through local**  
7 **exchange service, cellular service, fixed interconnected voice over Inter-**  
8 **net protocol service or other wired or wireless means.**

9       [(10)] **(13) “Public or private safety agency” means any unit of state or**  
10 **local government, a special-purpose district or a private firm that provides**  
11 **or has authority to provide fire-fighting, police, ambulance or emergency**  
12 **medical services.**

13       [(11)] **(14) “Public safety answering point” means a 24-hour communi-**  
14 **cations facility established as an answering location for 9-1-1 calls originat-**  
15 **ing within a given service area. A “primary public safety answering point”**  
16 **receives all calls directly from the public. A “secondary public safety an-**  
17 **swering point” [only] receives calls only from a primary public safety an-**  
18 **swering point on a transfer or relay basis.**

19       [(12)] *“Subscriber” means a person who has telecommunication access to the*  
20 *9-1-1 emergency reporting system through local exchange service, cellular ser-*  
21 *vice or other wired or wireless means.]*

22       **(15) “Telecommunications” means a full duplex method of providing**  
23 **the ability to make real-time two-way voice communication initiated,**  
24 **received or terminated through local exchange service, cellular ser-**  
25 **vice, fixed interconnected voice over Internet protocol service or other**  
26 **wired or wireless means.**

27       [(13)] **(16) “TTY” means a telephone-typewriter used by an individual with**  
28 **a hearing or speech impairment to communicate with another device or in-**  
29 **dividual.**

30       [(14)] **(17) “Utility” means a utility, as defined in ORS 759.005, a tele-**  
31 **communications carrier, as defined in ORS 133.721, a municipality or any**

1 provider of exchange access services.

2 [(15)] (18) "Vendor" means a person providing telephone customer prem-  
3 ises equipment or equipment specific to the operation of enhanced 9-1-1  
4 telephone service.

5 [(16)] (19) "9-1-1 emergency reporting system" means a telephone service  
6 that provides the users of a public telephone system the ability to reach a  
7 primary public safety answering point by calling 9-1-1.

8 [(17)] (20) "9-1-1 jurisdiction" means:

9 (a) An entity created under ORS chapter 190;

10 (b) A county service district established under ORS chapter 451 to provide  
11 an emergency communications system;

12 (c) An emergency communications district created under ORS 403.300 to  
13 403.380; or

14 (d) A group of public or private safety agencies [*who*] **that** have agreed  
15 in writing to jointly plan the installation, maintenance, operation or im-  
16 provement of a 9-1-1 emergency reporting system.

17 [(18)] (21) "9-1-1 service area" means the geographical area that contains  
18 the entire central office serving area from which the primary public safety  
19 answering point will have the capability to answer calls placed to 9-1-1.

20 **SECTION 2.** ORS 403.200 is amended to read:

21 403.200. (1) There is imposed on each paying retail [*subscriber who has*  
22 *telecommunication services*] **customer that has telecommunications ser-**  
23 **vice** with access to the 9-1-1 emergency reporting system a tax equal to 75  
24 cents per month. The tax must be applied on a telecommunications circuit  
25 designated for a particular [*subscriber*] **customer**. One [*subscriber*] **cus-**  
26 **tomer** line must be counted for each circuit that is capable of generating  
27 usage on the line side of the **public** switched **telephone** network regardless  
28 of the quantity or ownership of customer premises equipment connected to  
29 each circuit.

30 (2) For providers of central office based services, the tax must be applied  
31 to each line that has unrestricted connection to the **public** switched **tele-**

1 **phone** network. Those central office based service lines that have restricted  
2 connection to the **public** switched **telephone** network must be charged based  
3 on software design in the central office that restricts the number of station  
4 calls to and from the network. [*For cellular, wireless or other radio common*  
5 *carriers, the tax applies on a per instrument basis and only if the*  
6 *subscriber's*]

7 **(3) Except for prepaid telecommunications service, the tax shall be**  
8 **assessed on each customer connection for cellular, wireless, fixed**  
9 **interconnected voice over Internet protocol or other radio common**  
10 **carriers. The tax applies only if the customer's** place of primary use, as  
11 defined and determined under 4 U.S.C. 116 to 126, is within this state.

12 **(4) For customers that purchase prepaid telecommunications ser-**  
13 **vice or other customers that are not billed periodically for telecom-**  
14 **munications service, the amount charged by the provider must include**  
15 **75 cents for each monthly period during which the customer is au-**  
16 **thorized to access the prepaid telecommunications service. A provider**  
17 **is deemed to have met its obligation to collect the tax if the provider**  
18 **collects and remits the tax using one of the following options:**

19 **(a) On a monthly basis, the provider shall collect an amount equal**  
20 **to the tax from each active prepaid telecommunications service cus-**  
21 **tomers that is authorized to access the service and whose account bal-**  
22 **ance is equal to or greater than the tax; or**

23 **(b) If the provider cannot determine with reasonable specificity the**  
24 **number of prepaid telecommunications service customers that are**  
25 **authorized to access the service, the provider shall determine, on a**  
26 **monthly basis, the number of prepaid telecommunications service**  
27 **customers by dividing the provider's total intrastate monthly income**  
28 **from prepaid telecommunications service customers by the average**  
29 **income from each prepaid telecommunications service customer of the**  
30 **national prepaid telecommunications service industry and multiply the**  
31 **calculated number of prepaid telecommunications service customers**

1 **by the amount of the tax.**

2 [(2)] (5) The [*subscriber*] **customer** is liable for the tax imposed by this  
3 section.

4 [(3)] (6) The amounts of tax collected by the provider are considered as  
5 payment by the [*subscriber*] **customer** for that amount of tax.

6 [(4)] (7) Any return made by the provider collecting the tax must be ac-  
7 cepted by the Department of Revenue as evidence of payments by the [*sub-*  
8 *scriber*] **customer** of amounts of tax so indicated upon the return.

9 **SECTION 3.** Section 4, chapter 5, Oregon Laws 2002 (first special ses-  
10 sion), as amended by section 1, chapter 4, Oregon Laws 2002 (third special  
11 session), and section 1, chapter 629, Oregon Laws 2007, is amended to read:

12 **Sec. 4.** [(1)] Taxes imposed under ORS [401.792] **403.200** apply to [*sub-*  
13 *scriber*] **customer** bills issued on or after January 1, 2002, and before Janu-  
14 ary 1, [2014] **2016**.

15 [(2) *Taxes imposed under ORS 401.792 on or after January 1, 2002, and*  
16 *before May 13, 2002, are due and payable by the subscriber to the provider on*  
17 *or before 20 days after the first day of the month following May 13, 2002. Taxes*  
18 *that are not paid by the subscriber to the provider within the time required*  
19 *shall bear interest at the rate established under ORS 305.220 for each month,*  
20 *or fraction of a month, from the date that is 20 days after the first day of the*  
21 *month following May 13, 2002, until paid.*]

22 [(3) *Unless previously remitted, taxes that are paid to the provider under*  
23 *subsection (2) of this section shall be remitted by the provider to the Depart-*  
24 *ment of Revenue at the time and in the same manner as taxes imposed under*  
25 *ORS 401.792 for the first month following May 13, 2002, are remitted to the*  
26 *department.*]

27 **SECTION 4.** ORS 403.135 is amended to read:

28 403.135. (1) Each telecommunications utility that provides exchange ac-  
29 cess service or radio communications service and that provides automatic  
30 telephone number identification to public safety answering points may not  
31 block the number of the calling party from being forwarded on 9-1-1 calls.

1 (2) Automatic telephone number identifications received by public safety  
2 answering points are confidential and are not subject to public disclosure  
3 unless and until an official report is written by the public or private safety  
4 agency and that agency does not withhold the telephone number under ORS  
5 192.410 to 192.505 or other state and federal laws. The official report of a  
6 public safety answering point may not include nonpublished or nonlisted  
7 telephone numbers. The official report of a public or private safety agency  
8 may not include nonpublished or nonlisted telephone numbers. Nonpublished  
9 or nonlisted telephone numbers are not otherwise subject to public disclosure  
10 without the permission of the [*subscriber*] **customer**.

11 (3) A telecommunications utility is not subject to an action for civil  
12 damages for providing in good faith confidential or nonpublic information,  
13 including nonpublished and nonlisted [*subscriber*] **customer** information, to  
14 emergency services providers who are responding to emergency calls placed  
15 to a 9-1-1 or an enhanced 9-1-1 emergency reporting system or notifying the  
16 public of an emergency. This subsection does not compel a telecommuni-  
17 cations utility to provide nonpublished and nonlisted [*subscriber*] **customer**  
18 information directly to emergency services providers or law enforcement  
19 agencies prior to placement of an emergency call to a 9-1-1 or an enhanced  
20 9-1-1 emergency reporting system without process of law. [*Subscriber*] **Cus-**  
21 **tom**er information acquired by a 9-1-1 jurisdiction for the purpose of en-  
22 hancing a 9-1-1 emergency reporting system is not subject to public  
23 disclosure and may not be used by other public agencies except:

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

25 (b) To notify the public of an emergency by utilizing an automated tele-  
26 phone notification system if a telecommunications utility has provided [*sub-*  
27 *scriber*] **customer** information to the 9-1-1 jurisdiction or emergency services  
28 provider.

29 **SECTION 5.** ORS 403.210 is amended to read:

30 403.210. Every provider [*responsible for the collection of*] **required to**  
31 **collect** the tax imposed by ORS 403.200 to 403.230 shall keep records, render

1 statements, make returns and comply with rules adopted by the Department  
2 of Revenue with respect to the tax. Whenever in the judgment of the de-  
3 partment it is necessary, the department may require the provider or [*sub-*  
4 *scriber*] **customer**, by notice served upon that person by first-class mail, to  
5 make returns, render statements or keep records sufficient to show whether  
6 there is tax liability under ORS 403.200 to 403.230.

7 **SECTION 6.** ORS 403.220 is amended to read:

8 403.220. (1) If the amount paid by the provider to the Department of  
9 Revenue under ORS 403.215 exceeds the amount of tax payable, the depart-  
10 ment shall refund the amount of the excess with interest thereon at the rate  
11 established under ORS 305.220 for each month or fraction of a month from  
12 the date of payment of the excess until the date of the refund. The depart-  
13 ment may not make a refund to a provider [*who*] **that** fails to claim the re-  
14 fund within two years after the due date for filing of the return with respect  
15 to which the claim for refund relates.

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

18 **SECTION 7.** ORS 403.225 is amended to read:

19 403.225. (1) Every provider required to collect the tax imposed by ORS  
20 403.200 to 403.230 is deemed to hold the same in trust for the State of Oregon  
21 and for the payment thereof to the Department of Revenue in the manner  
22 and at the time provided by ORS 403.215.

23 (2) If the provider required to collect the tax fails to remit any amount  
24 deemed to be held in trust for the State of Oregon or if the [*subscriber*]  
25 **customer** fails to pay the tax, the department may enforce collection by the  
26 issuance of a distraint warrant for the collection of the delinquent amount  
27 and all penalties, interest and collection charges accrued thereon. The war-  
28 rant is issued and proceeded upon in the same manner and has the same  
29 force and effect as is prescribed with respect to warrants for the collection  
30 of delinquent income taxes.

31 **SECTION 8.** ORS 403.230 is amended to read:

1 403.230. (1) Unless the context requires otherwise, the provisions of ORS  
 2 chapters 305, 314 and 316 as to the audit and examination of reports and  
 3 returns, determination of deficiencies, assessments, claims for refunds, pen-  
 4 alties, interest, jeopardy assessments, warrants, conferences and appeals to  
 5 the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200  
 6 to 403.230 the same as if the tax were a tax imposed upon or measured by  
 7 net income. The provisions apply to the [*subscriber*] **customer** liable for the  
 8 tax and to the provider required to collect the tax. As to any amount col-  
 9 lected and required to be remitted to the Department of Revenue, the tax is  
 10 considered a tax upon the provider required to collect the tax and that pro-  
 11 vider is considered a taxpayer.

12 (2) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue  
 13 may disclose information received under ORS 403.200 to 403.230 to the Public  
 14 Utility Commission to carry out the provisions of chapter 290, Oregon Laws  
 15 1987.

16 (3) The Public Utility Commission may disclose information obtained  
 17 pursuant to chapter 290, Oregon Laws 1987, to the Department of Revenue  
 18 to administer the tax imposed under ORS 403.200 to 403.230.

19 **SECTION 9. Section 10 of this 2013 Act is added to and made a part**  
 20 **of ORS 403.105 to 403.250.**

21 **SECTION 10. (1) The Answering Point Consolidation Subaccount is**  
 22 **established as a subaccount of the Emergency Communications Ac-**  
 23 **count established in ORS 403.235. On the date of distribution described**  
 24 **in ORS 403.240, an amount described in subsection (2) of this section**  
 25 **must be credited to the subaccount. All moneys in the subaccount are**  
 26 **continuously appropriated to the Office of Emergency Management**  
 27 **and must be used to make grants for the consolidation of public safety**  
 28 **answering points to counties, and cities within those counties, de-**  
 29 **scribed in subsection (3) of this section.**

30 (2) The office shall credit to the subaccount an amount equal to 10  
 31 percent of the property tax revenues collected by a county described

1 in subsection (3) of this section in the last calendar year in which  
2 Oregon counties received payments pursuant to the Secure Rural  
3 Schools and Community Self-Determination Act of 2000 (Public Law  
4 106-393), not including in the calculation property taxes collected to  
5 pay exempt bonded indebtedness, as defined in ORS 310.140.

6 (3) A county, and cities within the county, are eligible to receive  
7 grants for consolidation from the subaccount if:

8 (a) The county received payments in the last calendar year in which  
9 Oregon counties received payments pursuant to the Secure Rural  
10 Schools and Community Self-Determination Act of 2000 (Public Law  
11 106-393); and

12 (b) The total of the payments was equal to or greater than 10 per-  
13 cent of the property taxes collected by the county in the calendar year,  
14 not including in the calculation property taxes collected to pay exempt  
15 bonded indebtedness, as defined in ORS 310.140.

16 (4) The office:

17 (a) Shall establish a process by which counties described in sub-  
18 section (3) of this section, and cities within those counties, may apply  
19 for a grant for consolidation under this section.

20 (b) May approve a grant when the office has determined that:

21 (A) All revisions to the final plan or system describing the consol-  
22 idation meet the requirements of ORS 403.115 and 403.130 and rules  
23 adopted pursuant to ORS 403.120; and

24 (B) The level of service in the 9-1-1 service area will not be com-  
25 promised by the consolidation.

26 SECTION 11. Section 10 of this 2013 Act and the amendments to  
27 ORS 403.105, 403.135, 403.200, 403.210, 403.220, 403.225 and 403.230 and  
28 section 4, chapter 5, Oregon Laws 2002 (first special session) by  
29 sections 1 to 8 of this 2013 Act apply to monthly periods of telecom-  
30 munications service that begin on or after the effective date of this  
31 2013 Act.

