

# Senate Bill 772

Sponsored by COMMITTEE ON RURAL COMMUNITIES AND ECONOMIC DEVELOPMENT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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; amending ORS 403.105,  
3 403.135, 403.200, 403.210, 403.220, 403.225 and 403.230 and section 4, chapter 5, Oregon Laws  
4 2002 (first special session); appropriating money; and providing for revenue raising that requires  
5 approval by a three-fifths majority.

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

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

8 403.105. As used in ORS 305.823 and 403.105 to 403.250, unless the context requires otherwise:

9 (1) "Account" means the Emergency Communications Account **established under ORS**  
10 **403.235.**

11 (2) "Central office" means a utility that houses the switching and trunking equipment serving  
12 telephones in a defined area.

13 (3) "**Customer**" means a person that has telecommunications service with access to the  
14 **9-1-1 emergency reporting system through local exchange service, cellular service, fixed**  
15 **interconnected voice over Internet protocol service or other wired or wireless means.**

16 [(3)] (4) "Department" means the Department of Revenue.

17 [(4)] (5) "Emergency call" means a [*telephone*] request **for service to a public safety answering**  
18 **point that is communicated through local exchange service, cellular service, fixed intercon-**  
19 **connected voice over Internet protocol service or other wired or wireless means and** that results  
20 from a situation in which prompt service is essential to preserve human life or property.

21 [(5)] (6) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a net-  
22 work, database and on-premises equipment that provides automatic display of the incoming tele-  
23 phone number and address in the designated public safety answering point at the time of receiving  
24 an incoming 9-1-1 call.

25 [(6)] (7) "Exchange access services" means:

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and

2 (b) Unless a separate tariff rate is charged therefor, any facility or service provided in con-  
3 nection with the services described in paragraph (a) of this subsection.

4 **(8) “Fixed interconnected voice over Internet protocol service” means a telecommuni-  
5 cations service that utilizes an Internet protocol to enable a customer to participate in  
6 real-time two-way voice communication.**

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

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

11 **(11) “Prepaid telecommunications service” means any telecommunications service paid  
12 for by a customer prior to activation or use of the service.**

13 [(9)] **(12)** “Provider” means a utility or other vendor or supplier of telecommunications service  
14 or equipment that provides telecommunications **service** with access to the 9-1-1 emergency reporting  
15 system through local exchange service, cellular service, **fixed interconnected voice over Internet  
16 protocol service** or other wired or wireless means.

17 [(10)] **(13)** “Public or private safety agency” means any unit of state or local government, a  
18 special-purpose district or a private firm that provides or has authority to provide fire-fighting, po-  
19 lice, ambulance or emergency medical services.

20 [(11)] **(14)** “Public safety answering point” means a 24-hour communications facility established  
21 as an answering location for 9-1-1 calls originating within a given service area. A “primary public  
22 safety answering point” receives all calls directly from the public. A “secondary public safety an-  
23 swering point” [only] receives calls **only** from a primary public safety answering point on a transfer  
24 or relay basis.

25 [(12)] *“Subscriber” means a person who has telecommunication access to the 9-1-1 emergency re-  
26 porting system through local exchange service, cellular service or other wired or wireless means.*

27 **(15) “Telecommunications” means a full duplex method of providing the ability to make  
28 real-time two-way voice communication initiated, received or terminated through local ex-  
29 change service, cellular service, fixed interconnected voice over Internet protocol service or  
30 other wired or wireless means.**

31 [(13)] **(16)** “TTY” means a telephone-typewriter used by an individual with a hearing or speech  
32 impairment to communicate with another device or individual.

33 [(14)] **(17)** “Utility” means a utility, as defined in ORS 759.005, a telecommunications carrier, as  
34 defined in ORS 133.721, a municipality or any provider of exchange access services.

35 [(15)] **(18)** “Vendor” means a person providing telephone customer premises equipment or  
36 equipment specific to the operation of enhanced 9-1-1 telephone service.

37 [(16)] **(19)** “9-1-1 emergency reporting system” means a telephone service that provides the users  
38 of a public telephone system the ability to reach a primary public safety answering point by calling  
39 9-1-1.

40 [(17)] **(20)** “9-1-1 jurisdiction” means:

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

42 (b) A county service district established under ORS chapter 451 to provide an emergency com-  
43 munications system;

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

45 (d) A group of public or private safety agencies [who] **that** have agreed in writing to jointly plan

1 the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

2 [(18)] (21) "9-1-1 service area" means the geographical area that contains the entire central of-  
 3 fice serving area from which the primary public safety answering point will have the capability to  
 4 answer calls placed to 9-1-1.

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

6 403.200. (1) There is imposed on each paying retail [*subscriber who has telecommunication ser-*  
 7 *vices*] **customer that has telecommunications service** with access to the 9-1-1 emergency report-  
 8 ing system a tax equal to 75 cents per month. The tax must be applied on a telecommunications  
 9 circuit designated for a particular [*subscriber*] **customer**. One [*subscriber*] **customer** line must be  
 10 counted for each circuit that is capable of generating usage on the line side of the **public** switched  
 11 **telephone** network regardless of the quantity or ownership of customer premises equipment con-  
 12 nected to each circuit.

13 (2) For providers of central office based services, the tax must be applied to each line that has  
 14 unrestricted connection to the **public** switched **telephone** network. Those central office based ser-  
 15 vice lines that have restricted connection to the **public** switched **telephone** network must be  
 16 charged based on software design in the central office that restricts the number of station calls to  
 17 and from the network. [*For cellular, wireless or other radio common carriers, the tax applies on a per*  
 18 *instrument basis and only if the subscriber's*]

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

23 (4) **For customers that purchase prepaid telecommunications service or other customers**  
 24 **that are not billed periodically for telecommunications service, the amount charged by the**  
 25 **provider must include 75 cents for each monthly period during which the customer is au-**  
 26 **thorized to access the prepaid telecommunications service. A provider is deemed to have met**  
 27 **its obligation to collect the tax if the provider collects and remits the tax using one of the**  
 28 **following options:**

29 (a) **On a monthly basis, the provider shall collect an amount equal to the tax from each**  
 30 **active prepaid telecommunications service customer that is authorized to access the service**  
 31 **and whose account balance is equal to or greater than the tax; or**

32 (b) **If the provider cannot determine with reasonable specificity the number of prepaid**  
 33 **telecommunications service customers that are authorized to access the service, the pro-**  
 34 **vider shall determine, on a monthly basis, the number of prepaid telecommunications service**  
 35 **customers by dividing the provider's total intrastate monthly income from prepaid telecom-**  
 36 **munications service customers by the average income from each prepaid telecommunications**  
 37 **service customer of the national prepaid telecommunications service industry and multiply**  
 38 **the calculated number of prepaid telecommunications service customers by the amount of**  
 39 **the tax.**

40 [(2)] (5) The [*subscriber*] **customer** is liable for the tax imposed by this section.

41 [(3)] (6) The amounts of tax collected by the provider are considered as payment by the [*sub-*  
 42 *scriber*] **customer** for that amount of tax.

43 [(4)] (7) Any return made by the provider collecting the tax must be accepted by the Department  
 44 of Revenue as evidence of payments by the [*subscriber*] **customer** of amounts of tax so indicated  
 45 upon the return.

1       **SECTION 3.** Section 4, chapter 5, Oregon Laws 2002 (first special session), as amended by sec-  
 2 tion 1, chapter 4, Oregon Laws 2002 (third special session), and section 1, chapter 629, Oregon Laws  
 3 2007, is amended to read:

4       **Sec. 4.** [(1)] Taxes imposed under ORS [401.792] **403.200** apply to [subscriber] **customer** bills is-  
 5 sued on or after January 1, 2002, and before January 1, [2014] **2016**.

6       [(2) Taxes imposed under ORS 401.792 on or after January 1, 2002, and before May 13, 2002, are  
 7 due and payable by the subscriber to the provider on or before 20 days after the first day of the month  
 8 following May 13, 2002. Taxes that are not paid by the subscriber to the provider within the time re-  
 9 quired shall bear interest at the rate established under ORS 305.220 for each month, or fraction of a  
 10 month, from the date that is 20 days after the first day of the month following May 13, 2002, until  
 11 paid.]

12       [(3) Unless previously remitted, taxes that are paid to the provider under subsection (2) of this  
 13 section shall be remitted by the provider to the Department of Revenue at the time and in the same  
 14 manner as taxes imposed under ORS 401.792 for the first month following May 13, 2002, are remitted  
 15 to the department.]

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

17       403.135. (1) Each telecommunications utility that provides exchange access service or radio  
 18 communications service and that provides automatic telephone number identification to public safety  
 19 answering points may not block the number of the calling party from being forwarded on 9-1-1 calls.

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

28       (3) A telecommunications utility is not subject to an action for civil damages for providing in  
 29 good faith confidential or nonpublic information, including nonpublished and nonlisted [subscriber]  
 30 **customer** information, to emergency services providers who are responding to emergency calls  
 31 placed to a 9-1-1 or an enhanced 9-1-1 emergency reporting system or notifying the public of an  
 32 emergency. This subsection does not compel a telecommunications utility to provide nonpublished  
 33 and nonlisted [subscriber] **customer** information directly to emergency services providers or law  
 34 enforcement agencies prior to placement of an emergency call to a 9-1-1 or an enhanced 9-1-1  
 35 emergency reporting system without process of law. [Subscriber] **Customer** information acquired by  
 36 a 9-1-1 jurisdiction for the purpose of enhancing a 9-1-1 emergency reporting system is not subject  
 37 to public disclosure and may not be used by other public agencies except:

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

39       (b) To notify the public of an emergency by utilizing an automated telephone notification system  
 40 if a telecommunications utility has provided [subscriber] **customer** information to the 9-1-1 juris-  
 41 diction or emergency services provider.

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

43       403.210. Every provider [responsible for the collection of] **required to collect** the tax imposed by  
 44 ORS 403.200 to 403.230 shall keep records, render statements, make returns and comply with rules  
 45 adopted by the Department of Revenue with respect to the tax. Whenever in the judgment of the

1 department it is necessary, the department may require the provider or [*subscriber*] **customer**, by  
2 notice served upon that person by first-class mail, to make returns, render statements or keep re-  
3 cords sufficient to show whether there is tax liability under ORS 403.200 to 403.230.

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

5 403.220. (1) If the amount paid by the provider to the Department of Revenue under ORS 403.215  
6 exceeds the amount of tax payable, the department shall refund the amount of the excess with in-  
7 terest thereon at the rate established under ORS 305.220 for each month or fraction of a month from  
8 the date of payment of the excess until the date of the refund. The department may not make a re-  
9 fund to a provider [*who*] **that** fails to claim the refund within two years after the due date for filing  
10 of the return with respect to which the claim for refund relates.

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

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

14 403.225. (1) Every provider required to collect the tax imposed by ORS 403.200 to 403.230 is  
15 deemed to hold the same in trust for the State of Oregon and for the payment thereof to the De-  
16 partment of Revenue in the manner and at the time provided by ORS 403.215.

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

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

24 403.230. (1) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and  
25 316 as to the audit and examination of reports and returns, determination of deficiencies, assess-  
26 ments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and ap-  
27 peals to the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200 to 403.230 the  
28 same as if the tax were a tax imposed upon or measured by net income. The provisions apply to the  
29 [*subscriber*] **customer** liable for the tax and to the provider required to collect the tax. As to any  
30 amount collected and required to be remitted to the Department of Revenue, the tax is considered  
31 a tax upon the provider required to collect the tax and that provider is considered a taxpayer.

32 (2) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-  
33 mation received under ORS 403.200 to 403.230 to the Public Utility Commission to carry out the  
34 provisions of chapter 290, Oregon Laws 1987.

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

38 **SECTION 9.** Section 10 of this 2013 Act is added to and made a part of ORS 403.105 to  
39 403.250.

40 **SECTION 10.** (1) **The Answering Point Consolidation Subaccount is established as a sub-**  
41 **account of the Emergency Communications Account established in ORS 403.235. On the date**  
42 **of distribution described in ORS 403.240, an amount described in subsection (2) of this section**  
43 **must be credited to the subaccount. All moneys in the subaccount are continuously appro-**  
44 **propriated to the Office of Emergency Management and must be used to make grants for the**  
45 **consolidation of public safety answering points to counties, and cities within those counties,**

1 described in subsection (3) of this section.

2 (2) The office shall credit to the subaccount an amount equal to 10 percent of the prop-  
3 erty tax revenues collected by a county described in subsection (3) of this section in the last  
4 calendar year in which Oregon counties received payments pursuant to the Secure Rural  
5 Schools and Community Self-Determination Act of 2000 (Public Law 106-393), not including  
6 in the calculation property taxes collected to pay exempt bonded indebtedness, as defined in  
7 ORS 310.140.

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

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

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

16 (4) The office:

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

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

20 (A) All revisions to the final plan or system describing the consolidation meet the re-  
21 quirements of ORS 403.115 and 403.130 and rules adopted pursuant to ORS 403.120; and

22 (B) The level of service in the 9-1-1 service area will not be compromised by the consol-  
23 idation.

24 SECTION 11. Section 10 of this 2013 Act and the amendments to ORS 403.105, 403.135,  
25 403.200, 403.210, 403.220, 403.225 and 403.230 and section 4, chapter 5, Oregon Laws 2002 (first  
26 special session) by sections 1 to 8 of this 2013 Act apply to monthly periods of telecommuni-  
27 cations service that begin on or after the effective date of this 2013 Act.