

B-Engrossed
House Bill 2449

Ordered by the House June 4
Including House Amendments dated April 15 and June 4

Sponsored by Representatives FINDLEY, LIVELY, MARSH, SMITH G; Representatives LEIF, LEWIS, WILDE
(Presession filed.)

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.

Increases rate of tax for emergency communications. Decreases percentage of moneys in Emergency Communications Account that may be expended for administrative costs. **Phases in increase and decrease over one-year period.**

Delays sunset on tax for emergency communications.

Provides that interest from Emergency Communications Account and 9-1-1 Subaccount must be credited to 9-1-1 Subaccount.

A BILL FOR AN ACT

1
2 Relating to tax for emergency communications; creating new provisions; amending ORS 403.200,
3 403.235 and 403.240 and section 4, chapter 5, Oregon Laws 2002 (first special session); and pro-
4 viding for revenue raising that requires approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 403.200 is amended to read:

7 403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecom-
8 munications service or interconnected Voice over Internet Protocol service, with access to the
9 emergency communications system a tax equal to *[75 cents]* **\$1.00** per month or, for prepaid wireless
10 telecommunications service, *[75 cents]* **\$1.00** per retail transaction. The tax must be applied on a
11 telecommunications circuit designated for a particular consumer or subscriber. One consumer or
12 subscriber line must be counted for each circuit that is capable of generating usage on the line side
13 of the switched network regardless of the quantity or ownership of customer premises equipment
14 connected to each circuit. For providers of central office based services, the tax must be applied to
15 each line that has unrestricted connection to the switched network. Those central office based ser-
16 vice lines that have restricted connection to the switched network must be charged based on soft-
17 ware design in the central office that restricts the number of station calls to and from the network.
18 For cellular, wireless or other common carriers, the tax applies to a subscriber on a per instrument
19 basis and only if the subscriber's place of primary use, as defined under 4 U.S.C. 124, is within this
20 state.

21 (2) The consumer or subscriber is liable for the tax imposed by this section.

22 (3) The amounts of tax collected by the provider or seller are considered as payment by the
23 consumer or subscriber for that amount of tax.

24 (4) The tax imposed under this section, as it applies to prepaid wireless telecommunications
25 service, shall be collected by the seller from the consumer with respect to each retail transaction

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 occurring in this state. The amount of the tax shall be separately stated on an invoice, receipt or
2 other similar document that the seller provides to the consumer, or shall be otherwise disclosed to
3 the consumer.

4 (5) For purposes of this section, a retail transaction:

5 (a) Occurs in this state if it is made in person by a consumer at a business location of the seller;

6 (b) If not made in person by a consumer at a business location of the seller, occurs in this state
7 if the consumer's shipping address, payment instrument billing address, or other address provided
8 by the consumer for purposes of the transaction, is in this state; or

9 (c) If insufficient information exists to determine whether paragraph (a) or (b) of this subsection
10 is accurate, occurs in this state if the consumer's prepaid wireless telephone number is associated
11 with an Oregon location.

12 (6) Any return made by the provider or seller collecting the tax must be accepted by the De-
13 partment of Revenue as evidence of payments by the consumer or subscriber of amounts of tax so
14 indicated upon the return.

15 **SECTION 2.** ORS 403.200, as amended by section 1 of this 2019 Act, is amended to read:

16 403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecom-
17 munications service or interconnected Voice over Internet Protocol service, with access to the
18 emergency communications system a tax equal to [~~\$1.00~~] **\$1.25** per month or, for prepaid wireless
19 telecommunications service, [~~\$1.00~~] **\$1.25** per retail transaction. The tax must be applied on a tele-
20 communications circuit designated for a particular consumer or subscriber. One consumer or sub-
21 scriber line must be counted for each circuit that is capable of generating usage on the line side
22 of the switched network regardless of the quantity or ownership of customer premises equipment
23 connected to each circuit. For providers of central office based services, the tax must be applied to
24 each line that has unrestricted connection to the switched network. Those central office based ser-
25 vice lines that have restricted connection to the switched network must be charged based on soft-
26 ware design in the central office that restricts the number of station calls to and from the network.
27 For cellular, wireless or other common carriers, the tax applies to a subscriber on a per instrument
28 basis and only if the subscriber's place of primary use, as defined under 4 U.S.C. 124, is within this
29 state.

30 (2) The consumer or subscriber is liable for the tax imposed by this section.

31 (3) The amounts of tax collected by the provider or seller are considered as payment by the
32 consumer or subscriber for that amount of tax.

33 (4) The tax imposed under this section, as it applies to prepaid wireless telecommunications
34 service, shall be collected by the seller from the consumer with respect to each retail transaction
35 occurring in this state. The amount of the tax shall be separately stated on an invoice, receipt or
36 other similar document that the seller provides to the consumer, or shall be otherwise disclosed to
37 the consumer.

38 (5) For purposes of this section, a retail transaction:

39 (a) Occurs in this state if it is made in person by a consumer at a business location of the seller;

40 (b) If not made in person by a consumer at a business location of the seller, occurs in this state
41 if the consumer's shipping address, payment instrument billing address, or other address provided
42 by the consumer for purposes of the transaction, is in this state; or

43 (c) If insufficient information exists to determine whether paragraph (a) or (b) of this subsection
44 is accurate, occurs in this state if the consumer's prepaid wireless telephone number is associated
45 with an Oregon location.

1 (6) Any return made by the provider or seller collecting the tax must be accepted by the De-
2 partment of Revenue as evidence of payments by the consumer or subscriber of amounts of tax so
3 indicated upon the return.

4 **SECTION 3.** ORS 403.240 is amended to read:

5 403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount
6 of the moneys in the Emergency Communications Account. The office shall pay the following
7 amounts from the account:

8 (a) Administrative costs incurred during the preceding calendar quarter by the Department of
9 Revenue in carrying out ORS 403.200 to 403.230 in an amount that does not exceed **six-tenths of**
10 one percent of the amount in the account on the date of distribution, or actual expenses incurred
11 by the department, whichever is less.

12 (b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency
13 Management in carrying out its duties under ORS 305.823 and 403.105 to 403.250. The amount to be
14 paid under this paragraph may not exceed four percent of the amount in the account on the date
15 of distribution, and, on or before the next date of distribution, the office shall repay to the account
16 any amount received under this paragraph that exceeds the actual expenses incurred by the office
17 in the quarter.

18 (2) The office may:

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

23 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-
24 tem under this subsection.

25 (3) The office shall use funds in the 9-1-1 Subaccount to pay for costs incurred during the pre-
26 ceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction un-
27 der ORS 403.105 to 403.250. The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1
28 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The office
29 shall make payments for costs of the emergency communications system on behalf of a 9-1-1 juris-
30 diction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a reimbursement
31 or payment request has been submitted to the office in the manner prescribed by the office. Re-
32 imbursement or payment requests for recurring and nonrecurring charges necessary to enable the
33 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted directly to the office. The
34 costs reimbursable or payable under this subsection are only those costs incurred for:

35 (a) Modification of network routers or servers, central office switching and trunking equipment
36 or other transport equipment;

37 (b) Network development, hosting services, operation and maintenance;

38 (c) Database development, operation and maintenance;

39 (d) On-premises equipment procurement, maintenance and replacement;

40 (e) Conversion of pay station telephones required by ORS 403.140;

41 (f) Collection of the tax imposed by ORS 403.200 to 403.230;

42 (g) Addressing if the reimbursement or payment request is consistent with rules adopted by the
43 office; and

44 (h) An employee of a 9-1-1 jurisdiction obtaining certification as a telecommunicator or emer-
45 gency medical dispatcher from the Department of Public Safety Standards and Training under ORS

1 181A.560.

2 (4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions based
3 on cost information provided in their final plan under ORS 403.130. The office shall approve 9-1-1
4 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The office shall
5 limit funding for costs incurred prior to the preceding calendar quarter to charges associated with
6 database development, network and on-premises equipment that satisfies the requirements of ORS
7 403.115 (2) and (4). The office shall prescribe the manner in which funding is provided under this
8 subsection.

9 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from an account or subac-
10 count established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans
11 were used for purposes that are allowable under ORS 403.105 to 403.250.

12 (6) The office shall retain amounts remaining in the 9-1-1 Subaccount and may distribute the
13 amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and (5) of this
14 section.

15 (7) The office shall review reimbursement or payment requests for costs identified in subsection
16 (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness of the
17 costs claimed. The office shall approve or reject the reimbursement or payment requests.

18 (8) After all amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been
19 paid, the office shall allocate the balance of the Emergency Communications Account to cities on
20 a per capita basis and to counties on a per capita basis of each county's unincorporated area for
21 distribution directly to 9-1-1 jurisdictions as directed by the city or county. However, each county
22 must be credited a minimum of one percent of the balance of the account after the amounts under
23 subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

24 (9) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must
25 be provided in the manner prescribed by the office and must include but not be limited to:

26 (a) Funds received and expended under subsection (8) of this section for the purposes of fulfilling
27 the requirements of ORS 403.115;

28 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
29 403.115; and

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

32 **SECTION 4.** ORS 403.240, as amended by section 3 of this 2019 Act, is amended to read:

33 403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount
34 of the moneys in the Emergency Communications Account. The office shall pay the following
35 amounts from the account:

36 (a) Administrative costs incurred during the preceding calendar quarter by the Department of
37 Revenue in carrying out ORS 403.200 to 403.230 in an amount that does not exceed six-tenths of one
38 percent of the amount in the account on the date of distribution, or actual expenses incurred by the
39 department, whichever is less.

40 (b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency
41 Management in carrying out its duties under ORS 305.823 and 403.105 to 403.250. The amount to be
42 paid under this paragraph may not exceed [four] 2.4 percent of the amount in the account on the
43 date of distribution, and, on or before the next date of distribution, the office shall repay to the
44 account any amount received under this paragraph that exceeds the actual expenses incurred by the
45 office in the quarter.

1 (2) The office may:

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

6 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-
7 tem under this subsection.

8 (3) The office shall use funds in the 9-1-1 Subaccount to pay for costs incurred during the pre-
9 ceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction un-
10 der ORS 403.105 to 403.250. The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1
11 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The office
12 shall make payments for costs of the emergency communications system on behalf of a 9-1-1 juris-
13 diction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a reimbursement
14 or payment request has been submitted to the office in the manner prescribed by the office. Re-
15 imbursement or payment requests for recurring and nonrecurring charges necessary to enable the
16 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted directly to the office. The
17 costs reimbursable or payable under this subsection are only those costs incurred for:

18 (a) Modification of network routers or servers, central office switching and trunking equipment
19 or other transport equipment;

20 (b) Network development, hosting services, operation and maintenance;

21 (c) Database development, operation and maintenance;

22 (d) On-premises equipment procurement, maintenance and replacement;

23 (e) Conversion of pay station telephones required by ORS 403.140;

24 (f) Collection of the tax imposed by ORS 403.200 to 403.230;

25 (g) Addressing if the reimbursement or payment request is consistent with rules adopted by the
26 office; and

27 (h) An employee of a 9-1-1 jurisdiction obtaining certification as a telecommunicator or emer-
28 gency medical dispatcher from the Department of Public Safety Standards and Training under ORS
29 181A.560.

30 (4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions based
31 on cost information provided in their final plan under ORS 403.130. The office shall approve 9-1-1
32 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The office shall
33 limit funding for costs incurred prior to the preceding calendar quarter to charges associated with
34 database development, network and on-premises equipment that satisfies the requirements of ORS
35 403.115 (2) and (4). The office shall prescribe the manner in which funding is provided under this
36 subsection.

37 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from an account or subac-
38 count established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans
39 were used for purposes that are allowable under ORS 403.105 to 403.250.

40 (6) The office shall retain amounts remaining in the 9-1-1 Subaccount and may distribute the
41 amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and (5) of this
42 section.

43 (7) The office shall review reimbursement or payment requests for costs identified in subsection
44 (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness of the
45 costs claimed. The office shall approve or reject the reimbursement or payment requests.

1 (8) After all amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been
2 paid, the office shall allocate the balance of the Emergency Communications Account to cities on
3 a per capita basis and to counties on a per capita basis of each county's unincorporated area for
4 distribution directly to 9-1-1 jurisdictions as directed by the city or county. However, each county
5 must be credited a minimum of one percent of the balance of the account after the amounts under
6 subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

7 (9) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must
8 be provided in the manner prescribed by the office and must include but not be limited to:

9 (a) Funds received and expended under subsection (8) of this section for the purposes of fulfilling
10 the requirements of ORS 403.115;

11 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
12 403.115; and

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

15 **SECTION 5.** Section 4, chapter 5, Oregon Laws 2002 (first special session), as amended by sec-
16 tion 1, chapter 4, Oregon Laws 2002 (third special session), section 1, chapter 629, Oregon Laws
17 2007, section 1, chapter 749, Oregon Laws 2013, and section 9, chapter 59, Oregon Laws 2014, is
18 amended to read:

19 **Sec. 4. (1)** Taxes imposed under ORS 403.200 apply to subscriber bills issued on or after January
20 1, 2002, and before January 1, [2022] **2030**, and to retail transactions made on or after October 1,
21 2015, and before January 1, [2022] **2030**.

22 **(2) The amendments to ORS 403.200 by section 1 of this 2019 Act apply to subscriber bills**
23 **issued and retail transactions made on or after January 1, 2020, and before January 1, 2021.**

24 **(3) The amendments to ORS 403.200 by section 2 of this 2019 Act apply to subscriber bills**
25 **issued and retail transactions made on or after January 1, 2021.**

26 **SECTION 6. The amendments to ORS 403.240 by section 4 of this 2019 Act become oper-**
27 **ative on January 1, 2021.**

28 **SECTION 7.** ORS 403.235 is amended to read:

29 403.235. (1) The Emergency Communications Account is established separate and distinct from
30 the General Fund in the State Treasury. All moneys received by the Department of Revenue pursu-
31 ant to ORS 403.200 to 403.230 and interest thereon must be paid to the State Treasurer to be held
32 in a suspense account established under ORS 293.445. After payment of refunds, the balance of the
33 moneys received must be paid into the State Treasury and credited to the Emergency Communi-
34 cations Account. **Interest earned by the account must be credited to the 9-1-1 Subaccount**
35 **established under subsection (2) of this section.** All moneys in the [account] **Emergency Com-**
36 **munications Account** are continuously appropriated to the Office of Emergency Management and
37 must be used for the purposes described in ORS 403.240.

38 (2) The 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Ac-
39 count. Thirty-five percent of the amount in the Emergency Communications Account on the date of
40 distribution must be credited to the 9-1-1 Subaccount. **Interest earned by the subaccount must**
41 **be credited to the subaccount.** All moneys in the [account] **subaccount** are continuously appro-
42 priated to the Office of Emergency Management and must be used for the purposes described in ORS
43 403.240 (3), (4) and (5).