

Enrolled
House Bill 2449

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 403.200 is amended to read:

403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecommunications service or interconnected Voice over Internet Protocol service, with access to the emergency communications system a tax equal to [75 cents] **\$1.00** per month or, for prepaid wireless telecommunications service, [75 cents] **\$1.00** per retail transaction. The tax must be applied on a telecommunications circuit designated for a particular consumer or subscriber. One consumer or subscriber line 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 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 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 common carriers, the tax applies to a subscriber on a per instrument basis and only if the subscriber's place of primary use, as defined under 4 U.S.C. 124, is within this state.

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

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

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

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

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

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

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

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

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

403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecommunications service or interconnected Voice over Internet Protocol service, with access to the emergency communications system a tax equal to [~~\$1.00~~] **\$1.25** per month or, for prepaid wireless telecommunications service, [~~\$1.00~~] **\$1.25** per retail transaction. The tax must be applied on a telecommunications circuit designated for a particular consumer or subscriber. One consumer or subscriber line 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 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 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 common carriers, the tax applies to a subscriber on a per instrument basis and only if the subscriber's place of primary use, as defined under 4 U.S.C. 124, is within this state.

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

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

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

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

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

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

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

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

SECTION 3. ORS 403.240 is amended to read:

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

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

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

any amount received under this paragraph that exceeds the actual expenses incurred by the office in the quarter.

(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 9-1-1 Subaccount to pay for costs incurred during the preceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction under ORS 403.105 to 403.250. The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The office shall make payments for costs of the emergency communications system on behalf of a 9-1-1 jurisdiction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a reimbursement or payment request has been submitted to the office in the manner prescribed by the office. Reimbursement or payment requests for recurring and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted directly to the office. The costs reimbursable or payable under this subsection are only those costs incurred for:

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

(b) Network development, hosting services, 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 403.140;

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

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

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

(4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions based on cost information provided in their final plan under ORS 403.130. The office shall approve 9-1-1 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The office shall limit funding for costs incurred prior to the preceding calendar quarter to charges associated with database development, network and on-premises equipment that satisfies the requirements of ORS 403.115 (2) and (4). 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 an account or subaccount established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans were used for purposes that are allowable under ORS 403.105 to 403.250.

(6) The office shall retain amounts remaining in the 9-1-1 Subaccount 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 office shall review reimbursement or payment requests for costs identified in subsection (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness of the costs claimed. The office shall approve or reject the reimbursement or payment requests.

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

must be credited a minimum of one percent of the balance of the account after the amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

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

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

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

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

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

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

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

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

(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 9-1-1 Subaccount to pay for costs incurred during the preceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction under ORS 403.105 to 403.250. The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The office shall make payments for costs of the emergency communications system on behalf of a 9-1-1 jurisdiction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a reimbursement or payment request has been submitted to the office in the manner prescribed by the office. Reimbursement or payment requests for recurring and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted directly to the office. The costs reimbursable or payable under this subsection are only those costs incurred for:

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

(b) Network development, hosting services, 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 403.140;

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

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

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

(4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions based on cost information provided in their final plan under ORS 403.130. The office shall approve 9-1-1 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The office shall limit funding for costs incurred prior to the preceding calendar quarter to charges associated with database development, network and on-premises equipment that satisfies the requirements of ORS 403.115 (2) and (4). 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 an account or subaccount established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans were used for purposes that are allowable under ORS 403.105 to 403.250.

(6) The office shall retain amounts remaining in the 9-1-1 Subaccount 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 office shall review reimbursement or payment requests for costs identified in subsection (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness of the costs claimed. The office shall approve or reject the reimbursement or payment requests.

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

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

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

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

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

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

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

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

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

SECTION 6. The amendments to ORS 403.240 by section 4 of this 2019 Act become operative on January 1, 2021.

SECTION 7. ORS 403.235 is amended to read:

403.235. (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 403.200 to 403.230 and interest thereon 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 must be paid into the State Treasury and credited to the Emergency Communi-

cations Account. **Interest earned by the account must be credited to the 9-1-1 Subaccount established under subsection (2) of this section.** All moneys in the [account] **Emergency Communications Account** are continuously appropriated to the Office of Emergency Management and must be used for the purposes described in ORS 403.240.

(2) The 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 must be credited to the 9-1-1 Subaccount. **Interest earned by the subaccount must be credited to the subaccount.** All moneys in the [account] **subaccount** are continuously appropriated to the Office of Emergency Management and must be used for the purposes described in ORS 403.240 (3), (4) and (5).

Passed by House June 6, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State