

Enrolled House Bill 2757

Sponsored by Representatives SANCHEZ, NOSSE; Representatives BYNUM, CHAICHI, DEXTER, EVANS, GAMBA, GRAYBER, HARTMAN, HELM, HOLVEY, HUDSON, LIVELY, MCLAIN, NELSON, NGUYEN H, PHAM H, PHAM K, REYNOLDS, RUIZ, VALDERRAMA, WALTERS, Senators DEMBROW, GELSER BLOUIN, GOLDEN, JAMA, LIEBER, PATTERSON, PROZANSKI, SOLLMAN (Presession filed.)

CHAPTER

AN ACT

Relating to crisis services; creating new provisions; amending ORS 403.200, 403.205, 403.215, 403.235, 403.240, 430.627, 430.628 and 430.629; prescribing an effective date; 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. (1) **The 9-8-8 Trust Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the 9-8-8 Trust Fund shall be credited to the fund. The 9-8-8 Trust Fund consists of:**

- (a) **Revenues from the 9-8-8 coordinated crisis services tax imposed under ORS 403.200 (1)(b);**
 - (b) **Appropriations made by the Legislative Assembly;**
 - (c) **Federal funds allocated to the state to implement the 9-8-8 suicide prevention and behavioral health crisis system;**
 - (d) **Gifts, grants and donations to the fund from public and private sources; and**
 - (e) **Moneys deposited into the fund from other sources.**
- (2) **Moneys in the 9-8-8 Trust Fund are continuously appropriated to the Oregon Health Authority for the purposes specified in ORS 430.627 and 430.628.**
- (3) **In accordance with 47 U.S.C. 251a, moneys in the 9-8-8 Trust Fund shall be sequestered and may be obligated or expended only for the purposes specified in ORS 430.627 and 430.628.**
- (4) **Moneys in the 9-8-8 Trust Fund at the end of a biennium are retained in the fund and do not revert to the General Fund and are not subject to transfer to any other fund or to transfer, assignment or reassignment for any other use or purpose other than the purposes specified in ORS 430.627 and 430.628.**
- (5) **Moneys in the 9-8-8 Trust Fund may not be used to displace available funding for services described in ORS 430.627 by Medicaid, Medicare, federal or state-regulated health insurance, disability insurance or local government programs or other federal, state or local funds for suicide prevention or behavioral health crisis services.**
- (6) **The authority shall provide an annual report of deposits into and expenditures from the 9-8-8 Trust Fund to the Legislative Assembly and to the Federal Communications Commission.**

SECTION 2. (1) The Oregon Health Authority shall provide an annual report on the revenue generated by the tax imposed under ORS 403.200 (1)(b) to the Legislative Assembly and the Federal Communications Commission.

(2) A local government may not impose a tax, fee or surcharge on telecommunications services for 9-8-8 services.

SECTION 3. ORS 430.627 is amended to read:

430.627. (1) The purposes of ORS 430.626 to 430.628 are to build upon and improve the statewide coordinated crisis system in this state and to:

(a) Remove barriers to accessing quality behavioral health crisis services;

(b) Improve equity in behavioral health treatment and ensure culturally, linguistically and developmentally appropriate responses to individuals experiencing behavioral health crises, in recognition that, historically, crisis response services placed marginalized communities at disproportionate risk of poor outcomes and criminal justice involvement;

(c) Ensure that all residents of this state receive a consistent and effective level of behavioral health crisis services no matter where they live, work or travel in the state; and

(d) Provide increased access to quality community behavioral health services to prevent interactions with the criminal justice system and prevent hospitalizations[, *if appropriate, by investing in.*].

(2) Moneys from the 9-8-8 Trust Fund established in section 1 of this 2023 Act shall be used as follows:

(a) Revenues from the 9-8-8 coordinated crisis services tax that are deposited into the fund shall be used only for:

(A) *[New technology for a]* **The crisis call center system [to triage calls and link individuals to follow-up care] and crisis hotline center described in subsections (4) and (5) of this section; and**

(B) To the extent that the crisis call center system and crisis hotline center are fully funded, the expansion and ongoing funding of mobile crisis intervention teams; and].

(b) Moneys other than revenues from the 9-8-8 coordinated crisis services tax that are deposited into the fund shall be used for:

[(C)] **(A) A wide array of crisis stabilization services, including services provided by:**

(i) Crisis stabilization centers;

(ii) Facilities offering short-term respite services;

(iii) Peer respite centers; **and**

(iv) Behavioral health urgent care walk-in centers; and

[(v) A crisis hotline center to receive calls, texts and chats from individuals or other crisis hotlines to provide crisis intervention services and crisis care coordination anywhere in this state 24 hours per day, seven days per week, 365 days per year]

(B) Community mental health program provision of crisis stabilization services or funding to cities to establish or maintain one or more mobile crisis intervention teams under ORS 430.628.

[(2)] **(3) The Oregon Health Authority shall adopt by rule requirements for crisis stabilization centers that, at a minimum, require a center to:**

(a) Be designed to prevent or ameliorate a behavioral health crisis or reduce acute symptoms of mental illness or substance use disorder, for individuals who do not require inpatient treatment, by providing continuous 24-hour observation and supervision;

(b) Be staffed 24 hours per day, seven days per week, 365 days per year by a multidisciplinary team capable of meeting the needs of individuals in the community experiencing all levels of crisis, that may include, but is not limited to:

(A) Psychiatrists or psychiatric nurse practitioners;

(B) Nurses;

(C) Licensed or credentialed clinicians in the region where the crisis stabilization center is located who are capable of completing assessments; and

(D) Peers with lived experiences similar to the experiences of the individuals served by the center;

(c) Have a policy prohibiting rejecting patients brought in or referred by first responders, and have the capacity, at least 90 percent of the time, to accept all referrals;

(d) Have services to address substance use crisis issues;

(e) Have the capacity to assess physical health needs and provide needed care and a procedure for transferring an individual, if necessary, to a setting that can meet the individual's physical health needs if the facility is unable to provide the level of care required;

(f) Offer walk-in and first responder drop-off options;

(g) Screen for suicide risk and complete comprehensive suicide risk assessments and planning when clinically indicated;

(h) Screen for violence risk and complete more comprehensive violence risk assessments and planning when clinically indicated; and

(i) Meet other requirements prescribed by the authority.

[(3)] (4) The authority shall *establish*:

(a) Implement, maintain and improve the 9-8-8 suicide prevention and behavioral health crisis hotline and ensure the efficient and effective routing of calls, including staffing and technological infrastructure enhancements necessary to achieve operational and clinical standards and best practices set forth by the 988 Suicide and Crisis Lifeline and prescribed by the authority; and

(b) Maintain a crisis hotline center to receive calls, texts and chats from the 9-8-8 suicide prevention and behavioral health crisis hotline and to provide crisis intervention services and crisis care coordination anywhere in this state 24 hours per day, seven days per week. The crisis hotline center shall:

[(a)] **(A)** Have an agreement to participate in the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** network.

[(b)] **(B)** Meet [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** requirements and best practices guidelines for operational and clinical standards and any additional clinical and operational standards prescribed by the authority.

[(c)] **(C)** Record data, provide reports and participate in evaluations and related quality improvement activities.

[(d)] **(D)** Establish formal agreements to collaborate with other agencies to ensure safe, integrated care for people in crisis who reach out to the 9-8-8 suicide prevention and behavioral health crisis hotline.

[(e)] **(E)** Contact and coordinate with the local community mental health programs for rapid deployment of a local mobile crisis intervention team and follow-up services as needed.

[(f)] **(F)** Utilize technologies, including chat and text applications, to provide a no-wrong-door approach for individuals seeking help from the crisis hotline and ensure collaboration among crisis and emergency response systems used throughout this state, such as 9-1-1 and 2-1-1, and with other centers in the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** network.

[(g)] **(G)** Establish policies and train staff on serving high-risk and specialized populations, including but not limited to lesbian, gay, bisexual, transgender and queer youth, minorities, veterans and individuals who have served in the military, rural residents [*and*], individuals with co-occurring disorders **and other racially and ethnically diverse communities**. Policies and training established under this [*paragraph*] **subparagraph** must include:

[(A)] **(i)** Policies and training on transferring calls made to the 9-8-8 suicide prevention and behavioral health crisis hotline to an appropriate specialized center within or external to the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** network; and

[(B)] **(ii)** Training on providing linguistically and culturally competent care and follow-up services to individuals accessing the 9-8-8 suicide prevention and behavioral health crisis hotline consistent with guidance and policies established by the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline**.

[4] (5) The staff of the crisis hotline center described in subsection [(3)] (4) of this section **must include individuals who possess the linguistic and cultural competency to respond to individuals within the demographics of the communities served and shall:**

(a) Have access to the most recently reported information regarding available mental health and behavioral health crisis services.

(b) Track and maintain data regarding responses to calls, texts and chats to the 9-8-8 suicide prevention and behavioral health crisis hotline.

(c) Work to resolve crises with the least invasive intervention possible.

(d) Connect callers whose crisis is de-escalated or otherwise managed by hotline staff with appropriate follow-on services and undertake follow-up contact with the caller when appropriate.

[(5)] (6) Crisis stabilization services provided to individuals accessing the 9-8-8 suicide prevention and behavioral health crisis hotline shall be reimbursed by the authority, coordinated care organizations or commercial insurance, depending on the individual's insurance status.

[(6)] (7) The authority shall adopt rules to allow appropriate information sharing and communication across all crisis service providers as necessary to carry out the requirements of this section and shall work in concert with the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** and the Veterans Crisis Line for the purposes of ensuring consistency of public messaging about 9-8-8 suicide prevention and behavioral health crisis hotline services.

SECTION 4. ORS 430.628 is amended to read:

430.628. (1) In consultation with local community mental health programs, the Oregon Health Authority shall, to the extent funding is available, require each community mental health program to provide crisis stabilization services to individuals contacting the 9-8-8 suicide prevention and behavioral health crisis hotline who need crisis stabilization services in the community by enhancing and expanding the use of mobile crisis intervention teams.

(2) A city may request funding from a county to establish and maintain one or more mobile crisis intervention teams.

(3) Mobile crisis intervention teams must operate in compliance with rules adopted by the authority.

(4) **A city that establishes and maintains a program for providing mobile crisis intervention services shall administer the program in accordance with a memorandum of understanding entered into between the city and the county or counties in which the city is located. A memorandum of understanding under this subsection must, at a minimum:**

(a) **Specify jurisdictional requirements for determining which entity will provide crisis response services in any given circumstance;**

(b) **Provide that the city shall comply with rules established by the Oregon Health Authority for provision of crisis intervention services; and**

(c) **Address the funding responsibilities of community mental health providers for crisis intervention services.**

SECTION 5. ORS 430.629 is amended to read:

430.629. The Oregon Health Authority [*may*] **shall** establish [*committees*] **an advisory committee** in accordance with ORS 430.075 or assign tasks to existing agencies, boards or committees to [*accomplish the planning required for*] **provide primary oversight and direction on the implementation** [*or ongoing oversight of*] **and operation of the statewide coordinated crisis system described in ORS 430.626 to 430.628 and to provide guidance to the authority, gather feedback and make recommendations regarding the planning and implementation of the 9-8-8 suicide prevention and behavioral health crisis hotline. The advisory committee must include but is not limited to** [*in coordination with*]:

(1) **Representatives of the crisis hotline center** [*established*] **maintained** under ORS 430.627 [(3)] (4) **and 9-1-1 call centers**, the Oregon Department of Emergency Management, local public health and mental health authorities, hospitals and health systems, coordinated care organizations, as defined in ORS 414.025, telecommunication providers, **law enforcement** and the [*National Suicide Prevention Lifeline*] **988 Suicide and Crisis Lifeline** Local Mental Health Authority[,]; **and**

(2) Certified peer support specialists, as defined in ORS 414.025, [9-1-1, *law enforcement*,] individuals with lived experiences in mental illness or substance use disorder **and their family members and caregivers**, consumers of behavioral health services, including youth and families, and other stakeholders identified by the authority.

SECTION 6. 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]:

(a) **An emergency communications tax equal to \$1.25 per month or, for prepaid wireless telecommunications service, \$1.25 per retail transaction; and**

(b) **A 9-8-8 coordinated crisis services tax equal to \$0.40 per month or, for prepaid wireless telecommunications service, \$0.40 per retail transaction.**

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

[(3)] (4) 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)] (5) 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)] (6) 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)] (7) 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 7. ORS 403.205 is amended to read:

403.205. The tax imposed by ORS 403.200:

(1) Does not apply to:

[(1)] (a) Services that the state is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon.

[(2)] (b) Interconnection between telecommunications utilities and competitive access providers certified pursuant to ORS 759.020, common carriers and interexchange carriers.

(2) **As imposed under ORS 403.200 (1)(b), does not apply to services provided under the plan of assistance established under section 6, chapter 290, Oregon Laws 1987.**

SECTION 8. ORS 403.215 is amended to read:

403.215. (1) The provider or seller is responsible for collecting the tax under ORS 403.200 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 emergency communications system]* during the quarter, **with the tax due under ORS 403.200 (1)(a) and (b) stated separately**. The department shall prescribe the form of the return required by this section and ORS 403.210. The rules of the department must require that returns be made under penalties for false swearing.

(2) When a return of the tax is required under ORS 403.210 or subsection (1) of this section, the provider or seller required to make the return shall remit the tax due to the department at the time fixed for filing the return.

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

SECTION 9. ORS 403.235 is amended to read:

403.235. (1) The Emergency Communications Account is established in the State Treasury, separate and distinct from the General Fund. 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.

(2) After payment of refunds[,];

(a) Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering the 9-8-8 coordinated crisis services tax, not to exceed 0.6 percent of tax collections under ORS 403.200 (1)(b), are continuously appropriated to the department; and

(b) The balance of the moneys received must be paid into the State Treasury and credited to the:

(A) Emergency Communications Account with respect to tax paid under ORS 403.200 (1)(a); and

(B) 9-8-8 Trust Fund established in section 1 of this 2023 Act with respect to tax paid under ORS 403.200 (1)(b).

(3) Interest earned by the **Emergency Communications** Account must be credited to the 9-1-1 Subaccount established under subsection *[(2)]* (4) of this section. All moneys in the Emergency Communications Account are continuously appropriated to the Oregon Department of Emergency Management and must be used for the purposes described in ORS 403.240.

[(2)] (4) 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 subaccount are continuously appropriated to the Oregon Department of Emergency Management and must be used for the purposes described in ORS 403.240 (3), (4) and (5).

SECTION 10. ORS 403.240 is amended to read:

403.240. (1) The Oregon Department of Emergency Management shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account. The department 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 Oregon Department 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 2.4 percent of the amount in the account on the date of distribution, and, on or before the next date of distribution, the department shall repay to the account any amount received under this paragraph that exceeds the actual expenses incurred by the department in the quarter.

(2) The department 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 department 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 department 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 department 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 department in the manner prescribed by the department. 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 department. 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 **emergency communications** tax imposed by ORS [403.200 to 403.230] **403.200 (1)(a)**;

(g) Addressing if the reimbursement or payment request is consistent with rules adopted by the department; 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 Oregon Department of Emergency Management shall provide funding to 9-1-1 jurisdictions based on cost information provided in their final plan under ORS 403.130. The department shall approve 9-1-1 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The department 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 department 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 department 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 department 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 department 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)] (4) have been paid, the department 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)] (4) have been paid.

(9) 9-1-1 jurisdictions shall submit an accounting report to the department annually. The report must be provided in the manner prescribed by the department 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 11. Section 2 of this 2023 Act and the amendments to ORS 403.200 and 403.205 by sections 6 and 7 of this 2023 Act apply to subscriber bills issued and to retail transactions made on or after January 1, 2024, and before January 1, 2030.

SECTION 12. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House June 22, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 25, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State