

House Bill 2911
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 771.001, Health and Safety Code, is amended by adding Subdivision (5-a) and amending Subdivision (6) to read as follows:

(5-a) "Next generation 9-1-1 service" has the meaning assigned by 47 U.S.C. Section 942.

(6) "9-1-1 service" means a communications service that connects users to a public safety answering point through a 9-1-1 system. The term includes next generation 9-1-1 service.

SECTION 2. Section 771.059, Health and Safety Code, is amended to read as follows:

Sec. 771.059. TARGET DATE [~~DEADLINE~~] FOR STATEWIDE NEXT GENERATION 9-1-1 SERVICE. Before September 1, 2025 [~~1995~~], all parts of the state must be covered by next generation 9-1-1 service.

SECTION 3. The heading to Section 771.0711, Health and Safety Code, is amended to read as follows:

Sec. 771.0711. GENERAL REQUIREMENTS FOR EMERGENCY SERVICE FEES [~~FEE~~] FOR WIRELESS TELECOMMUNICATIONS CONNECTIONS.

SECTION 4. Sections 771.0711(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) Except as provided by Section 772.114, to [~~To~~] provide for automatic number identification and automatic location

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SECTION 1. Section 771.001, Health and Safety Code, is amended by adding Subdivisions (5-a) and (5-b) and amending Subdivision (6) to read as follows:

(5-a) "Next generation 9-1-1 service" has the meaning assigned by 47 U.S.C. Section 942.

(5-b) "Next generation 9-1-1 service fund" means the next generation 9-1-1 service fund established under Section 771.0713.

(6) "9-1-1 service" means a communications service that connects users to a public safety answering point through a 9-1-1 system. The term includes next generation 9-1-1 service.

SECTION 2. Same as House version.

No equivalent provision.

No equivalent provision.

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identification of wireless 9-1-1 calls and for the deployment and reliable operation of next generation 9-1-1 service, the commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 75 [~~50~~] cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the comptroller not later than the 30th day after the last day of the month during which the fees were collected. The comptroller may establish alternative dates for payment of fees under this section. The wireless service provider may retain an administrative fee of one percent of the amount collected. The comptroller shall deposit the money from the fees to the credit of the 9-1-1 services fee account. Until deposited to the credit of the 9-1-1 services fee account as required by Subsection (c), money the comptroller collects under this subsection remains in a trust fund with the state treasury.

(c) Money collected under Subsection (b) may be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services and the deployment and reliable operation of next generation 9-1-1 service, or as authorized by Section 771.079(c). Not later than the 15th day after the end of the month in which the money is collected, the commission shall distribute to each emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the district bears to the

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population of the state, excluding the population of the emergency communication district created under Subchapter B, Chapter 772. The remaining money collected under Subsection (b) shall be deposited to the 9-1-1 services fee account. Notwithstanding this subsection, the emergency communication district created under Subchapter B, Chapter 772, must be included in the collection and distribution of prepaid wireless 9-1-1 emergency service fees under Section 771.0712.

SECTION 5. Section 772.103, Health and Safety Code, is amended by adding Subdivisions (2-a), (4), and (5) to read as follows:

(2-a) "Next generation 9-1-1 service" has the meaning assigned by 47 U.S.C. Section 942.

(4) "Wireless service provider" and "wireless telecommunications connection" have the meanings assigned by Section 771.001.

(5) "Wireless service subscriber" means a customer who is provided wireless telecommunications connections in the district.

No equivalent provision.

SECTION 6. Sections 772.114 and 772.115, Health and Safety Code, are amended to read as follows:

Sec. 772.114. 9-1-1 EMERGENCY SERVICE FEES ~~[FEE]~~.

(a) The board may:

(1) [impose a 9-1-1 emergency service fee on service users in the district] if authorized [to do so] by a majority of the votes cast in the election to confirm the creation of the district and by a majority vote of the governing body of each participating

No equivalent provision.

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jurisdiction, impose a 9-1-1 emergency service fee for a local exchange access line on service users in the district; and

(2) impose a 9-1-1 emergency service fee on each wireless telecommunications connection in the district to provide for:

(A) automatic number identification and automatic location identification of wireless 9-1-1 calls; and

(B) the deployment and reliable operation of next generation 9-1-1 service.

(b) For purposes of Subsection (a)(1) [~~this subsection~~], the jurisdiction of the county is the unincorporated area of the county.

(c) [~~(b)~~] The fee authorized under Subsection (a)(1) may be imposed only on the base rate charge or its equivalent, excluding charges for coin-operated telephone equipment. The fee may not be imposed on more than 100 local exchange access lines or their equivalent for a single business entity at a single location, unless the lines are used by residents of the location. The fee may [~~also~~] not be imposed on any line that the [~~Advisory~~] Commission on State Emergency Communications excluded from the definition of a local exchange access line or an equivalent local exchange access line pursuant to Section 771.063. If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line must [~~shall~~] be charged the [~~9-1-1 emergency service~~] fee. The fee must have uniform application and must be imposed in each participating jurisdiction.

(d) [~~(e)~~] The rate of the fee imposed under Subsection (a)(1) may not exceed six percent of the monthly base rate charged a service user by the principal service supplier in the participating jurisdiction.

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(e) The Commission on State Emergency Communications may not impose on a wireless telecommunications connection in the district a fee authorized by Section 771.0711 that is imposed for the same purposes as the purposes described by Subsection (a)(2).

(f) The amount of the fee imposed under Subsection (a)(2) may not:

(1) exceed 75 cents a month for each wireless telecommunications connection; and

(2) increase by more than 10 percent of the monthly fee amount imposed under that subdivision in the preceding year each time the fee amount is set.

(g) ~~(d)~~ The board shall set the amount of the 9-1-1 emergency service fees [fee] each year as part of the annual budget. The board shall notify each service supplier and wireless service provider of a change in the amount of the applicable fee imposed on the service supplier or wireless service provider not later than the 91st day before the date the change takes effect.

(h) ~~(e)~~ In imposing the 9-1-1 emergency service fees [fee], the board shall attempt to match the district's revenues to its operating expenditures and to provide reasonable reserves for contingencies and for the purchase and installation of 9-1-1 emergency service equipment. If the revenue received from the fees [fee] exceeds the amount of money needed to fund the district, the board by resolution shall reduce the rate of either ~~the~~ fee to an amount adequate to fund the district as required by this subsection or suspend the imposition of either ~~the~~ fee. If the board suspends the imposition of either ~~the~~ fee, the board by resolution may reinstitute the fee if money received by the district is not adequate to fund the district.

(i) ~~(f)~~ In a public agency whose governing body at a later

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date votes to receive 9-1-1 service from the district~~;~~ ~~at a later date],~~ the 9-1-1 emergency service fees are ~~[fee-is]~~ imposed beginning on the date specified by the board. The board may charge the ~~[incoming]~~ agency an additional amount of money to cover the initial cost of providing 9-1-1 service to the ~~[that]~~ agency. The fees ~~[fee]~~ authorized to be charged in a district apply ~~[applies]~~ to new territory added to the district under Section 772.105(b) when the territory becomes part of the district.

Sec. 772.115. COLLECTION OF FEES ~~[FEE]~~. (a) Each ~~[billed]~~ service user or wireless service subscriber billed a 9-1-1 emergency service fee is liable for the fee ~~[imposed under Section 772.114]~~ until the fee is paid to the service supplier or wireless service provider, as applicable. The applicable fee must be added to and stated separately in the service user's or wireless service subscriber's bill from the service supplier or wireless service provider. The service supplier and wireless service provider shall collect the applicable fee at the same time as the service charge to the service user or wireless service subscriber in accordance with the regular billing practice of the service supplier or wireless service provider.

(b) A business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents shall collect the ~~[9-1-1 emergency service]~~ fee under Section 772.114(a)(1) and transmit the fees monthly to the district.

(c) ~~[(b)]~~ The amount collected by a service supplier from the fee under Section 772.114(a)(1) is due quarterly. The service supplier shall remit the amount collected in a calendar quarter to the district not later than the 60th day after the last day of the calendar quarter. With each payment the service supplier shall file a return in a form prescribed by the board.

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(d) The amount collected by a wireless service provider from the fee imposed under Section 772.114(a)(2) is due monthly. The wireless service provider shall remit the amount collected in a calendar month to the comptroller not later than the 30th day after the last day of the calendar month. With each payment the wireless service provider shall file a return in the form prescribed by the comptroller or in a comparable form generated by the billing system of the wireless service provider.

(e) The comptroller shall deposit the money collected under Subsection (d) in a trust fund in the state treasury for the benefit of the district until distributed to the district. Not later than the 15th day following the last day of the month in which the money is collected, the Commission on State Emergency Communications shall provide to the district a copy of the confidential returns filed by each wireless service provider under Subsection (d) and distribute to the district the total amount of money remitted to the comptroller under that subsection from 9-1-1 emergency service fees imposed under Section 772.114(a)(2) on wireless telecommunications connections in the district.

(f) A ~~(e) Both a~~ service supplier, wireless service provider, and [a] business service user under Subsection (b) ~~[(a)]~~ shall maintain records of the amount of the applicable 9-1-1 emergency service fees the service supplier, wireless service provider, or business service user ~~[it]~~ collects for at least two years after the date of collection. The board may require at the board's expense an annual audit of a service supplier's, wireless service provider's, or business service user's books and records ~~[or the books and records of a business service user described by Subsection (a)]~~ with respect to the collection and remittance of the applicable fees.

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(g) [(d)] A business service user that does not collect and remit the ~~[9-1-1 emergency service]~~ fee under Section 772.114(a)(1) as required by this section is subject to a civil cause of action under Subsection (j) [(g)]. A sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(h) [(e)] A service supplier or wireless service provider is entitled to retain an administrative fee from the amount of the applicable 9-1-1 emergency service fees the service supplier or wireless service provider [it] collects under this section. The amount of the administrative fee is two percent of the amount of fees the service supplier or wireless service provider [it] collects [under this section].

(i) [(f)] A service supplier or wireless service provider is not required to take any legal action to enforce the collection of a ~~[the]~~ 9-1-1 emergency service fee due to either the service supplier or wireless service provider. ~~Each [However, the]~~ service supplier and wireless service provider shall provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees due to the service supplier or wireless service provider and the name and address of each nonpaying service user or wireless service subscriber. The certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent. A service user or wireless service subscriber account is considered delinquent if a [the] fee is not paid to the service supplier or wireless service provider, as applicable, before the 31st day after the payment due date stated on the service user's or wireless service subscriber's bill [from the service supplier].

(j) [(g)] The district may institute legal proceedings to collect 9-1-1 emergency service fees not paid and may establish

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internal collection procedures and recover the cost of collection from the nonpaying service user or wireless service subscriber. If legal proceedings are established, the court may award the district court costs, attorney's fees, and interest to be paid by the nonpaying service user or wireless service subscriber. A delinquent fee accrues interest at an annual rate of 12 percent beginning on the date the payment becomes due.

SECTION 7. Sections 772.119(a) and (d), Health and Safety Code, are amended to read as follows:

(a) Periodically, the board shall solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fees [fee]. The first hearing shall be held three years after the date the order certifying the creation of the district is filed with the county clerk. Subsequent hearings shall be held three years after the date each order required by Subsection (d) is adopted.

(d) After the hearing, the board shall adopt an order on the continuation or dissolution of the district and the 9-1-1 emergency service fees [fee].

SECTION 8. Section 772.120(a), Health and Safety Code, is amended to read as follows:

(a) If a district is dissolved, 9-1-1 service must be discontinued on the date of the dissolution. The commissioners court of the county in which the principal part of the district was located shall assume the assets of the district and pay the district's debts. If the district's assets are insufficient to retire all existing debts of the district on the date of dissolution, the commissioners court shall continue to

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impose the 9-1-1 emergency service fees [fee], and each service supplier and wireless service provider shall continue to collect the applicable fees [fee] for the commissioners court. Proceeds from the imposition of the fees [fee] by the county after dissolution of the district may be used only to retire the outstanding debts of the district.

SECTION 9. Section 772.122, Health and Safety Code, is amended to read as follows:

Sec. 772.122. REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest on the bonds by pledging all or any part of the district's revenues from the 9-1-1 emergency service fees [fee] or from other sources.

No equivalent provision.

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No equivalent provision.

SECTION 3. Subchapter D, Chapter 771, Health and Safety Code, is amended by adding Section 771.0713 to read as follows:

Sec. 771.0713. NEXT GENERATION 9-1-1 SERVICE FUND. (a) The next generation 9-1-1 service fund is created as a fund in the state treasury outside the general revenue fund.

(b) Notwithstanding any other law and except as provided by federal law, the comptroller shall transfer to the credit of the next generation 9-1-1 service fund any amount available from federal money provided to this state from the Coronavirus State and Local Fiscal Recovery Funds under Section 9901 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) or from any other federal governmental source for purposes of this chapter. The comptroller shall transfer the money as soon

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as practicable following the receipt by this state of a sufficient amount of federal money for the transfer.

(c) Money deposited to the credit of the next generation 9-1-1 service fund may be used only for the purpose of supporting the deployment and reliable operation of next generation 9-1-1 service, including the costs of equipment, operations, and administration. Money in the fund may be distributed to only the commission and emergency communication districts and must be used in a manner that complies with federal law.

(d) Interest earned on money deposited to the credit of the next generation 9-1-1 service fund is exempt from Section 404.071, Government Code. Interest on money in the fund shall be retained in the fund.

(e) The comptroller may issue guidelines for use by the commission and emergency communication districts in implementing this section.

(f) All money in the fund shall be distributed in accordance with this section not later than December 31, 2022, and all money distributed under this section shall be spent not later than December 31, 2024, for the deployment and reliable operation of next generation 9-1-1 service.

(g) This section expires September 1, 2025.

SECTION 10. Sections 771.0711(g) and (j), Health and Safety Code, are repealed.

SECTION 4. Same as House version.

SECTION 11. The changes in law made by this Act apply only to a fee imposed or expense that is due during a billing cycle that occurs on or after January 1, 2022. A fee imposed or expense due during a billing cycle that occurs before

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January 1, 2022, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

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SECTION 12. This Act takes effect September 1, 2021.

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SECTION 5. Not later than December 1, 2021, the comptroller of public accounts shall adopt rules necessary to establish and administer the next generation 9-1-1 service fund established under Section 771.0713, Health and Safety Code, as added by this Act.

SECTION 6. Same as House version.

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