

29-11-102. Imposition of charge - liability of user for charge - collection - uncollected amounts - rules.

(1) (a) In addition to any other powers for the protection of the public health, a governing body may incur any equipment, installation, and other directly related costs for the continued operation of an **emergency** telephone service as further described in section [29-11-104](#), and may pay such costs by imposing an **emergency** telephone charge for such service in those portions of the governing body's jurisdiction for which **emergency** telephone service will be provided. The governing body may do such other acts as may be expedient for the protection and preservation of the public health and as may be necessary for the acquisition of equipment, for the provision of initial services, and for the operation of the **emergency** telephone service.

(b) If the **emergency** telephone service is to be provided for territory which is included in whole or in part in the jurisdiction of the governing bodies of two or more public agencies which are the primary providers of **emergency** fire fighting, law enforcement, ambulance, **emergency** medical, or other **emergency** services, the agreement for such service with a BESP or any equipment supplier shall be entered into by each such governing body unless any such body expressly excludes itself therefrom. Any such agreement shall provide that each governing body that is a customer of such service shall make payment therefor from charges imposed under paragraph (a) of this subsection (1), unless all such customers make payments therefor from general revenues. Nothing in this paragraph (b) shall be construed to prevent two or more such governing bodies from entering into a contract under part 2 of article 1 of this title and to establish a separate legal entity thereunder to enter into such an agreement as the customer of the BESP or any equipment supplier.

(2) (a) The governing body is hereby authorized, by ordinance in the case of cities and by resolution in the case of counties or special districts, to impose such charge in an amount not to exceed seventy cents per month per exchange access facility, per wireless **communications** access, and per interconnected voice-over-internet-protocol service in those portions of the governing body's jurisdiction for which **emergency** telephone service will be provided.

(b) In the event the governing body determines that a charge in excess of seventy cents per month is necessary in order to provide continued and adequate **emergency** telephone service, the governing body shall obtain from the public utilities commission approval of such higher charge before the imposition thereof.

(c) Regardless of the level at which the charge is set, the amount of the charge imposed per exchange access facility, per wireless **communications** access, and per interconnected voice-over-internet-protocol service shall be equal.

(d) The proceeds of the charge shall be utilized to pay for **emergency** telephone service, as set forth in section [29-11-104](#) (2), and may be imposed at any time after the governing body requests such service from the provider or, in the case of wireless carriers, at any time after the governing body requests wireless ANI or wireless ALI from the wireless carrier.

(3) Such charge shall be imposed only upon service users whose address is in those portions of the governing body's jurisdiction for which **emergency** telephone service shall be provided; however, such charge shall not be imposed upon any state or local governmental entity.

(4) Every billed service user shall be liable for any charge imposed under this article until it has been

paid to the service supplier.

(5) The duty to collect or pay any charge imposed under the authority of this article shall commence at such time as may be specified by the governing body. Charges imposed under the authority of this article and required to be collected by the service supplier shall be added to and may be stated separately in the billings, if any, to the service user.

(6) The service supplier shall have no obligation to take any legal action to enforce the collection of any charge imposed under the authority of this article. Such action may be brought by or in behalf of the public agency imposing the charge or the separate legal entity formed pursuant to paragraph (b) of subsection (1) of this section. The service supplier shall annually provide the governing body a list of the amounts uncollected along with the names and addresses of those service users that carry a balance that can be determined by the service supplier to be the nonpayment of any charge imposed under the authority of this article. The service supplier shall not be held liable for such uncollected amounts that have been billed to the service user.

(7) Any charge imposed under the authority of this article shall be collected insofar as practicable at the same time as, and along with, the charges for the rate in accordance with the regular billing practice of the service supplier. The rates determined by or stated on the billing of the service supplier are presumed to be correct if such charges were made in accordance with the service supplier's business practices. The presumption may be rebutted by evidence which establishes that an incorrect rate was charged.

Source: **L. 81:** Entire article added, p. 1416, § 1, effective May 26. **L. 85:** (1) amended and (2.5) added, p. 1052, § 2, effective April 17. **L. 90:** (2) and (3) amended, p. 1451, § 8, effective July 1. **L. 97:** (1)(b), (2), (3), and (7) amended, p. 573, § 3, effective April 30. **L. 2004:** (1)(a) amended, p. 1879, § 2, effective July 1. **L. 2008:** (2)(a), (2)(c), (5), and (6) amended, p. 684, § 2, effective August 5.

Editor's note: Subsections (2)(a), (2)(c), (5), and (6) were contained in a 2008 act that was passed without a safety clause. For further explanation concerning the effective date, see page ix of this volume.