

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 550

Representatives Flowers, Driehaus

**Cosponsors: Representatives Hughes, Harwood, Williams, B., Sayre, Yuko,
Chandler, Okey, Schneider, Otterman, J., Szollosi, Adams, Dolan, Lundy,
Strahorn, Letson, Stebelton, Skindell, Hite, Combs, Brown, McGregor, J.,
Ujvagi, Zehringer, Uecker**

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A B I L L

To amend sections 4931.61, 4931.62, 4931.63, 4931.64, 1
4931.65, 4931.66, and 4931.70 of the Revised Code 2
to extend until 2013 the wireless 9-1-1 charge, to 3
raise the minimum, annual fund disbursement amount 4
for each county from \$25,000 to \$90,000, and to 5
broaden local uses of that revenue. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4931.61, 4931.62, 4931.63, 4931.64, 7
4931.65, 4931.66, and 4931.70 of the Revised Code be amended to 8
read as follows: 9

Sec. 4931.61. (A) Beginning on the first day of the third 10
month following ~~the effective date of this section~~ May 6, 2005, 11
and ending December 31, ~~2008~~ 2012, there is hereby imposed, on 12
each wireless telephone number of a wireless service subscriber 13
who has a billing address in this state, a wireless 9-1-1 charge 14
of thirty-two cents per month. The subscriber shall pay the 15
wireless 9-1-1 charge for each such wireless telephone number 16

assigned to the subscriber. Each wireless service provider and 17
each reseller of wireless service shall collect the wireless 9-1-1 18
charge as a specific line item on each subscriber's monthly bill. 19
The line item shall be expressly designated "State/Local 20
Wireless-E911 Costs (\$0.32/billed number)." If a provider bills a 21
subscriber for any wireless enhanced 9-1-1 costs that the provider 22
may incur, the charge or amount is not to appear in the same line 23
item as the state/local line item. If the charge or amount is to 24
appear in its own, separate line item on the bill, the charge or 25
amount shall be expressly designated "[Name of Provider] Federal 26
Wireless-E911 Costs." ~~For any~~ However, in the case of the 27
thirty-two cent wireless 9-1-1 charge payable by a subscriber of 28
prepaid wireless service, a wireless service provider or reseller 29
shall ~~collect the wireless 9-1-1 charge in~~ do any of the following 30
manners: 31

(1) ~~At~~ Collect the charge at the point of sale. ~~For purposes~~ 32
of ~~prepaid wireless services, point of sale includes the~~ 33
~~purchasing~~ initial airtime minutes and at the time of each later 34
purchase of additional airtime minutes ~~by the subscriber along~~ 35
~~with any necessary activation of those minutes. If the provider or~~ 36
~~reseller is unable to track such transactions, the provider or~~ 37
~~reseller shall charge the thirty-two cent wireless 9-1-1 charge on~~ 38
~~each point-of-sale transaction, regardless of the number of~~ 39
~~separate airtime minute purchases that occur within the same~~ 40
month. 41

(2) If the subscriber has a positive account balance on the 42
last day of the month and has used the service during that month, 43
collect the charge by reducing that balance not later than the end 44
of the first week of the following month by the amount of the 45
charge or an equivalent number of ~~air time~~ airtime minutes; 46

(3) ~~By dividing~~ Divide the total earned prepaid wireless 47

telephone revenue from sales within this state received by the 48
wireless service provider or reseller during the month by fifty, 49
multiplying the quotient by thirty-two cents, and ~~remitting~~ remit 50
this amount pursuant to division (A)(1) of section 4931.62 of the 51
Revised Code. 52

(B) The wireless 9-1-1 charge shall be exempt from state or 53
local taxation. 54

Sec. 4931.62. (A)(1) Beginning with the second month 55
following the month in which the wireless 9-1-1 charge is first 56
imposed under section 4931.61 of the Revised Code, a wireless 57
service provider or reseller of wireless service, not later than 58
the last day of each month, shall remit the full amount of all 59
wireless 9-1-1 charges it collected for the second preceding 60
calendar month to the Ohio 9-1-1 coordinator, with the exception 61
of charges equivalent to the amount authorized as a billing and 62
collection fee under division (A)(2) of this section. In doing so, 63
the provider or reseller may remit the requisite amount in any 64
reasonable manner consistent with its existing operating or 65
technological capabilities, such as by customer address, location 66
associated with the wireless telephone number, or another 67
allocation method based on comparable, relevant data. If the 68
wireless service provider or reseller receives a partial payment 69
for a bill from a wireless service subscriber, the wireless 70
service provider or reseller shall apply the payment first against 71
the amount the subscriber owes the wireless service provider or 72
reseller and shall remit to the coordinator such lesser amount, if 73
any, as results from that invoice. 74

(2) A wireless service provider or reseller of wireless 75
service may retain as a billing and collection fee two per cent of 76
the total wireless 9-1-1 charges it collects in any month and 77
shall account to the coordinator for the amount retained. 78

(3) The coordinator shall return to, or credit against the 79
next month's remittance of, a wireless service provider or service 80
reseller the amount of any remittances the coordinator determines 81
were erroneously submitted by the provider or reseller. 82

(B) Each subscriber on which a wireless 9-1-1 charge is 83
imposed under division (A) of section 4931.61 of the Revised Code 84
is liable to the state for the amount of the charge. ~~If a wireless~~ 85
~~service provider or reseller fails to collect the charge under~~ 86
~~that division from a subscriber of prepaid wireless service, or~~ 87
~~fails to bill any other subscriber for the charge, the wireless~~ 88
~~service provider or reseller is liable to the state for the amount~~ 89
~~not collected or billed. If, except that~~ a wireless service 90
provider or reseller that collects charges under that division and 91
fails to remit the money to the coordinator, ~~the wireless service~~ 92
~~provider or reseller~~ is liable to the state for any amount so 93
collected and not remitted. Additionally, in the case of prepaid 94
wireless services, the provider or reseller is liable to the state 95
for the amount of the charge assessed in the manner chosen by the 96
provider under division (A) of section 4931.61 of the Revised 97
Code, including those occurring through a third-party vendor or 98
retail outlet selling the provider's or reseller's prepaid 99
wireless services. 100

(C)(1) If the public utilities commission has reason to 101
believe that a wireless service provider or reseller has failed to 102
bill, collect, or remit the wireless 9-1-1 charge as required by 103
divisions (A)(1) and (B) of this section or has retained more than 104
the amount authorized under division (A)(2) of this section, and 105
after written notice to the provider or reseller, the commission 106
may audit the provider or reseller for the sole purpose of making 107
such a determination. The audit may ~~be of~~ include, but is not 108
limited to, a sample of the provider's or reseller's billings, 109
collections, remittances, or retentions for a representative 110

period, and the commission shall make a good faith effort to reach 111
agreement with the provider or reseller in selecting that sample. 112

(2) Upon written notice to the wireless service provider or 113
reseller, the commission, by order after completion of the audit, 114
may make an assessment against the provider or reseller if, 115
pursuant to the audit, the commission determines that the provider 116
or reseller has failed to bill, collect, or remit the wireless 117
9-1-1 charge as required by divisions (A)(1) and (B) of this 118
section or has retained more than the amount authorized under 119
division (A)(2) of this section. The assessment shall be in the 120
amount of any remittance that was due and unpaid on the date 121
notice of the audit was sent by the commission to the provider or 122
reseller or, as applicable, in the amount of the excess amount 123
under division (A)(2) of this section retained by the provider or 124
reseller as of that date. 125

(3) The portion of any assessment not paid within sixty days 126
after the date of service by the commission of the assessment 127
notice under division (C)(2) of this section shall bear interest 128
from that date until paid at the rate per annum prescribed by 129
section 5703.47 of the Revised Code. That interest may be 130
collected by making an assessment under division (C)(2) of this 131
section. An assessment under this division and any interest due 132
shall be remitted in the same manner as the wireless 9-1-1 charge. 133

(4) An assessment is final and due and payable and shall be 134
remitted to the commission unless the assessed party petitions for 135
rehearing under section 4903.10 of the Revised Code. The 136
proceedings of the commission specified in division (C)(4) of this 137
section are subject to and governed by Chapter 4903. of the 138
Revised Code, except that the court of appeals of Franklin county 139
has exclusive, original jurisdiction to review, modify, or vacate 140
an order of the commission under division (C)(2) of this section. 141
The court shall hear and determine such appeal in the same manner 142

and under the same standards as the Ohio supreme court hears and 143
determines appeals under Chapter 4903. of the Revised Code. 144

The judgment of the court of appeals is final and conclusive 145
unless reversed, vacated, or modified on appeal. Such an appeal 146
may be made by the commission or the person to whom the order 147
under division (C)(2) of this section was issued and shall proceed 148
as in the case of appeals in civil actions as provided in Chapter 149
2505. of the Revised Code. 150

(5) After an assessment becomes final, if any portion of the 151
assessment remains unpaid, including accrued interest, a certified 152
copy of the commission's entry making the assessment final may be 153
filed in the office of the clerk of the court of common pleas in 154
the county in which the place of business of the assessed party is 155
located. If the party maintains no place of business in this 156
state, the certified copy of the entry may be filed in the office 157
of the clerk of the court of common pleas of Franklin county. 158
Immediately upon the filing, the clerk shall enter a judgment for 159
the state against the assessed party in the amount shown on the 160
entry. The judgment may be filed by the clerk in a loose-leaf book 161
entitled "special judgments for wireless 9-1-1 charges" and shall 162
have the same effect as other judgments. The judgment shall be 163
executed upon the request of the commission. 164

(6) An assessment under this division does not discharge a 165
subscriber's liability to reimburse the provider or reseller for 166
the wireless 9-1-1 charge. If, after the date of service of the 167
audit notice under division (C)(1) of this section, a subscriber 168
pays a wireless 9-1-1 charge for the period covered by the 169
assessment, the payment shall be credited against the assessment. 170

(7) All money collected by the commission under this division 171
shall be paid to the treasurer of state, for deposit to the credit 172
of the wireless 9-1-1 government assistance fund. 173

Sec. 4931.63. (A) There is hereby created the wireless 9-1-1 174
administrative fund in the state treasury. A sufficient 175
percentage, determined by the chairperson of the public utilities 176
commission but not to exceed ~~four per cent through the first full~~ 177
~~fiscal year and~~ two per cent ~~thereafter~~, of the periodic 178
remittances of the wireless 9-1-1 charge under section 4931.62 of 179
the Revised Code shall be deposited to the credit of the fund, to 180
be used by the commission to cover such nonpayroll costs and, at 181
the discretion of the commission such payroll costs, of the 182
commission as are incurred in assisting the coordinator in 183
carrying out sections 4931.60 to 4931.70 of the Revised Code and 184
in conducting audits under division (C) of section 4931.62 of the 185
Revised Code. In addition, the compensation of the Ohio 9-1-1 186
coordinator, and any expenses of the coordinator in carrying out 187
those sections, shall be paid from the fund. 188

(B) There is hereby created the wireless 9-1-1 government 189
assistance fund, which shall be in the custody of the treasurer of 190
state but shall not be part of the state treasury. The periodic 191
remittances of the wireless 9-1-1 charge remaining after the 192
deposit required by division (A) of this section shall be 193
deposited to the credit of the wireless 9-1-1 government 194
assistance fund. The treasurer of state shall deposit or invest 195
the moneys in this fund in accordance with Chapter 135. of the 196
Revised Code and any other provision of law governing public 197
moneys of the state as defined in section 135.01 of the Revised 198
Code. The treasurer of state shall credit the interest earned to 199
the fund. The treasurer of state shall disburse money from the 200
fund solely upon order of the coordinator as authorized under 201
section 4931.64 of the Revised Code. Annually, until the fund is 202
depleted, the treasurer of state shall certify to the coordinator 203
the amount of moneys in the treasurer of state's custody belonging 204
to the fund. 205

Sec. 4931.64. (A) Prior to the first disbursement under this 206
section and annually thereafter not later than the twenty-fifth 207
day of January, until the wireless 9-1-1 government assistance 208
fund is depleted, the Ohio 9-1-1 coordinator shall do both of the 209
following for the purposes of division (B) of this section: 210

(1) Determine, for a county that has adopted a final plan 211
under sections 4931.40 to 4931.70 of the Revised Code for the 212
provision of wireless enhanced 9-1-1 within the territory covered 213
by the countywide 9-1-1 system established under the plan, the 214
number of wireless telephone numbers assigned to wireless service 215
subscribers that have billing addresses within the county. That 216
number shall be adjusted between any two counties so that the 217
number of wireless telephone numbers assigned to wireless service 218
subscribers who have billing addresses within any portion of a 219
municipal corporation that territorially lies primarily in one of 220
the two counties but extends into the other county is added to the 221
number already determined for that primary county and subtracted 222
for the other county. 223

(2) Determine each county's proportionate share of the 224
wireless 9-1-1 government assistance fund for the ensuing calendar 225
year on the basis set forth in division (B) of this section; 226
estimate the ensuing calendar year's fund balance; compute each 227
such county's estimated proceeds for the ensuing calendar year 228
based on its proportionate share and the estimated fund balance; 229
and certify such amount of proceeds to the county auditor of each 230
such county. 231

(B) The Ohio 9-1-1 coordinator, in accordance with this 232
division and not later than the last day of each month, shall 233
disburse the amount credited as remittances to the wireless 9-1-1 234
government assistance fund during the second preceding month, plus 235
any accrued interest on the fund. Such a disbursement shall be 236

paid to each county treasurer. The amount to be so disbursed 237
monthly to a particular county shall be a proportionate share of 238
the wireless 9-1-1 government assistance fund balance based on the 239
ratio between the following: 240

(1) The number of wireless telephone numbers determined for 241
the county by the coordinator pursuant to division (A) of this 242
section; 243

(2) The total number of wireless telephone numbers assigned 244
to subscribers who have billing addresses within this state. To 245
the extent that the fund balance permits, the disbursements to 246
each county shall total at least ~~twenty-five~~ ninety thousand 247
dollars annually. 248

(C)(1) Each county that has not adopted a final plan for the 249
provision of wireless enhanced 9-1-1 under sections 4931.40 to 250
4931.70 of the Revised Code shall be deemed as having done so for 251
the purposes of making the determinations and disbursements under 252
divisions (A)(1) and (2) and (B) of this section through the third 253
full calendar year following ~~the effective date of this section~~ 254
May 6, 2005. 255

(2) For each county described in division (C)(1) of this 256
section and through the third full calendar year following ~~the~~ 257
~~effective date of this section~~ May 6, 2005, the coordinator shall 258
retain in the wireless 9-1-1 government assistance fund an amount 259
equal to what would be the county's disbursements under division 260
(B) of this section if it had adopted such a final plan, plus any 261
related accrued interest, to be set aside for that county until 262
the board of county commissioners notifies the coordinator that a 263
final plan for the provision of wireless enhanced 9-1-1 has been 264
adopted, but not beyond the end of such third year. Provided 265
notification is made prior to the end of that third year, the 266
coordinator shall disburse and pay to the county treasurer, not 267
later than the last day of the month following the month the 268

notification is made, the total amount so set aside for the county 269
plus any related accrued interest. After the end of the third full 270
calendar year following ~~the effective date of this section~~ May 6, 271
2005, any money and interest so retained and not disbursed as 272
authorized under this division shall be available for disbursement 273
only as provided in division (B) of this section. 274

(D) Immediately upon receipt by a county treasurer of a 275
disbursement under division (B) or (C) of this section, the county 276
shall disburse, in accordance with the allocation formula set 277
forth in the final plan, the amount the county so received to any 278
other subdivisions in the county that pay the costs of a public 279
safety answering point providing wireless enhanced 9-1-1 under the 280
plan. 281

(E) Nothing in sections 4931.40 to 4931.70 of the Revised 282
Code affects the authority of a subdivision operating or served by 283
a public safety answering point of a 9-1-1 system to use, as 284
provided in the final plan for the system or in an agreement under 285
section 4931.48 of the Revised Code, any other authorized revenue 286
of the subdivision for the purposes of providing basic or enhanced 287
9-1-1. 288

Sec. 4931.65. (A) A countywide 9-1-1 system receiving a 289
disbursement under section 4931.64 of the Revised Code shall 290
provide countywide wireless enhanced 9-1-1 in accordance with 291
sections 4931.40 to 4931.70 of the Revised Code beginning as soon 292
as reasonably possible after receipt of the first disbursement or, 293
if that service is already implemented, shall continue to provide 294
such service. Except as provided in divisions (B) and (C) of this 295
section, disbursement shall be used solely for the purpose of 296
paying ~~either or both~~ any of the following: 297

(1) Any costs of designing, upgrading, purchasing, leasing, 298
programming, installing, testing, or maintaining the necessary 299

data, hardware, software, and trunking required for the public 300
safety answering point or points of the 9-1-1 system to provide 301
wireless enhanced 9-1-1, which costs are incurred before or on or 302
after ~~the effective date of this section~~ May 6, 2005, and consist 303
of such additional costs of the 9-1-1 system over and above any 304
costs incurred to provide wireline 9-1-1. On or after the 305
provision of technical and operational standards pursuant to 306
division (D)(1) of section 4931.68 of the Revised Code, a 307
subdivision shall consider the standards before incurring any 308
costs described in this division. 309

(2) Any costs of training the staff of the public safety 310
answering point or points to provide ~~wireless~~ enhanced 9-1-1, 311
which costs are incurred before or on or after ~~the effective date~~ 312
~~of this section and consist of such additional costs of the 9-1-1~~ 313
~~system over and above any costs incurred to provide wireline 9-1-1~~ 314
May 6, 2005; 315

(3) Public education regarding enhanced 9-1-1. 316

(B) Beginning one year following the imposition of the 317
wireless 9-1-1 charge under section 4931.61 of the Revised Code, a 318
subdivision that certifies to the Ohio 9-1-1 coordinator that it 319
has paid the costs described in divisions (A)(1) and (2) of this 320
section and is providing countywide wireless enhanced 9-1-1 may 321
use disbursements received under section 4931.64 of the Revised 322
Code to pay any of its personnel costs of one or more public 323
safety answering points providing countywide wireless enhanced 324
9-1-1. 325

(C) After receiving its April 2009, disbursement under 326
section 4931.64 of the Revised Code, a subdivision may use any 327
remaining balance of disbursements it received under that section 328
to pay any of its costs of providing countywide wireless 9-1-1, 329
including the personnel costs of one or more public safety 330
answering points providing that service. 331

(D) The costs described in divisions (A), (B), and (C) of 332
this section may include any such costs payable pursuant to an 333
agreement under division (J) of section 4931.41 of the Revised 334
Code. 335

Sec. 4931.66. (A)(1) A ~~wireless service provider~~ telephone 336
company, the state highway patrol as described in division (J) of 337
section 4931.41 of the Revised Code, and each subdivision 338
operating one or more public safety answering points for a 339
countywide system providing wireless 9-1-1, shall provide the Ohio 340
9-1-1 coordinator with such information as the coordinator 341
requests for the purposes of carrying out the coordinator's duties 342
under sections 4931.60 to 4931.70 of the Revised Code, including, 343
but not limited to, duties regarding the collection of the 344
wireless 9-1-1 charge and regarding the provision of a report or 345
recommendation under section 4931.70 of the Revised Code. 346

(2) A wireless service provider shall provide an official, 347
employee, agent, or representative of a subdivision operating a 348
public safety answering point, or of the state highway patrol as 349
described in division (J) of section 4931.41 of the Revised Code, 350
with such technical, service, and location information as the 351
official, employee, agent, or representative requests for the 352
purpose of providing wireless 9-1-1. 353

(3) A subdivision operating one or more public safety 354
answering points of a 9-1-1 system, and a telephone company, shall 355
provide to the Ohio 9-1-1 council such information as the council 356
requires for the purpose of ~~making any recommendation or report~~ 357
~~pursuant to~~ carrying out its duties under division (D)(2) of 358
section 4931.68 of the Revised Code. 359

(B)(1) Any information provided under division (A) of this 360
section that consists of trade secrets as defined in section 361
1333.61 of the Revised Code or of information regarding the 362

customers, revenues, expenses, or network information of a 363
telephone company shall be confidential and does not constitute a 364
public record for the purpose of section 149.43 of the Revised 365
Code. 366

(2) The public utilities commission, the Ohio 9-1-1 367
coordinator, and any official, employee, agent, or representative 368
of the commission, of the state highway patrol as described in 369
division (J) of section 4931.41 of the Revised Code, or of a 370
subdivision operating a public safety answering point, while 371
acting or claiming to act in the capacity of the commission or 372
coordinator or such official, employee, agent, or representative, 373
shall not disclose any information provided under division (A) of 374
this section regarding a telephone company's customers, revenues, 375
expenses, or network information. Nothing in division (B)(2) of 376
this section precludes any such information from being aggregated 377
and included in any report required under section 4931.70 or 378
division (D)(2) of section 4931.69 of the Revised Code, provided 379
the aggregated information does not identify the number of any 380
particular company's customers or the amount of its revenues or 381
expenses or identify a particular company as to any network 382
information. 383

Sec. 4931.70. ~~On the first day of~~ By November ~~preceding the~~ 384
~~2007-2009 budget biennium~~ 30, 2011, the Ohio 9-1-1 coordinator 385
shall submit a report to the general assembly, in accordance with 386
section 101.68 of the Revised Code, that contains both of the 387
following: 388

(A) A review of the implementation and provision of wireless 389
enhanced 9-1-1 in this state and a description of how moneys 390
disbursements from the wireless 9-1-1 government assistance fund 391
have been used. In preparing the report, the coordinator shall 392
consult with the wireless 9-1-1 advisory board. 393

(B) The coordinator's recommendation for the coming budget 394
biennium of any change in the amount of the wireless 9-1-1 charge 395
and the basis for that recommendation. The recommendation shall 396
reflect the minimum amount necessary during the coming budget 397
biennium, given any balance in the wireless 9-1-1 government 398
assistance fund to be carried over to that biennium and the 399
projected revenue from the charge, to fully cover the costs 400
described in division (A) of section 4931.65 of the Revised Code 401
as projected for that biennium. The amount also shall reflect the 402
minimum amount necessary for the wireless 9-1-1 charge to cover 403
the costs described in division (A) of section 4931.63 of the 404
Revised Code as projected for the biennium, given the wireless 405
9-1-1 administrative fund balance to be carried over. In making a 406
recommendation under this division, the coordinator shall consider 407
any recommendation of the wireless 9-1-1 advisory board. 408

Section 2. That existing sections 4931.61, 4931.62, 4931.63, 409
4931.64, 4931.65, 4931.66, and 4931.70 of the Revised Code are 410
hereby repealed. 411