

IC 36-8-16

Chapter 16. Emergency Telephone System Fee

IC 36-8-16-1

Applicability of chapter

Sec. 1. This chapter applies to all units except townships.
As added by P.L.91-1988, SEC.5.

IC 36-8-16-2

Enhanced emergency telephone system defined

Sec. 2. As used in this chapter, "enhanced emergency telephone system" means a telephone system that utilizes the three digit number 911 to send automatic number identification and automatic location identification for reporting police, fire, medical, or other emergency situations. The term also includes a telephone system that provides service users in the unit with a telephone warning of an emergency situation through a computerized warning system that uses 911 database information and technology if the emergency telephone fund of the telephone system's political subdivision contains sufficient funds to pay all the expenses of the 911 telephone system.
As added by P.L.91-1988, SEC.5. Amended by P.L.93-1999, SEC.1.

IC 36-8-16-3

Exchange access facility defined

Sec. 3. (a) As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.

(b) The term includes:

- (1) an access line;
- (2) a private branch exchange (PBX) trunk; and
- (3) a centrex line trunk equivalent;

that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier. In the case of a service user receiving interconnected VoIP service, the term refers to the Internet protocol compatible customer premises equipment that enables the service user to access the interconnected VoIP service.

(c) The term does not include:

- (1) a service supplier owned and operated telephone pay station line;
- (2) a wide area telecommunications service (WATS) line;
- (3) a foreign exchange (FX) line; or
- (4) an incoming only line.

As added by P.L.91-1988, SEC.5. Amended by P.L.137-2008, SEC.2.

IC 36-8-16-3.3

Interconnected VoIP service defined

Sec. 3.3. As used in this chapter, "interconnected VoIP service" has the meaning set forth in 47 CFR 9.3.

As added by P.L.137-2008, SEC.3.

IC 36-8-16-3.5

PSAP defined

Sec. 3.5. As used in this chapter, "PSAP" has the meaning set forth in IC 36-8-16.5-13.

As added by P.L.137-2008, SEC.4.

IC 36-8-16-4

Service supplier and service user defined

Sec. 4. (a) As used in this chapter, "service supplier" means a person who provides telephone exchange service to a service user in Indiana. The term includes a person who offers interconnected VoIP service to a service user whose registered location (as defined in 47 CFR 9.3) is in Indiana.

(b) As used in this chapter, "service user" means a person to whom telephone exchange service is provided.

As added by P.L.91-1988, SEC.5. Amended by P.L.137-2008, SEC.5.

IC 36-8-16-5

Ordinance to impose enhanced emergency telephone system fee

Sec. 5. (a) Subject to the limitations provided in section 6 of this chapter, the fiscal body of a county may adopt an ordinance to impose a monthly enhanced emergency telephone system fee for each exchange access facility used in the county.

(b) If a county fiscal body decides to impose a countywide fee and establish a countywide enhanced emergency telephone system, the county shall allow all public emergency response agencies in the county to participate in the enhanced emergency telephone system. The fee must be sufficient to pay the cost of the installation and operation of the enhanced emergency telephone system for all participating agencies.

(c) If a county fiscal body does not impose a fee under subsection (a), the legislative body of a municipality in the county may petition the county fiscal body to adopt an ordinance to impose a fee. If the county fiscal body does not respond to the petition within ninety (90) days, the legislative body of the municipality may adopt an ordinance to impose a fee for each exchange access facility used in the municipality, subject to section 6 of this chapter. If a county, in response to a municipality's petition, decides to impose a countywide fee, installation of the system must begin within one hundred eighty (180) days of the adoption of the ordinance. If installation has not begun within that time period, the county's response is void and the municipality may adopt an ordinance to impose a fee.

(d) If a county fiscal body decides to impose a countywide fee after a municipality has imposed a fee, the municipality's fee ordinance is superseded by the county ordinance and is void. However, the fee imposed by the county must include funds sufficient to meet the outstanding obligations of the municipality for the enhanced 911 system.

As added by P.L.91-1988, SEC.5.

IC 36-8-16-6

Uniformity of fee; maximum amount; calculating average monthly telephone access line charge

Sec. 6. (a) An enhanced emergency telephone system fee must be uniform and may not vary according to the type of exchange access facilities used in the unit.

(b) The ordinance imposing a fee under section 5 of this chapter may not impose a fee that exceeds the following:

(1) In a county that has a consolidated city or a county that has at least one (1) second class city, three percent (3%) of the average monthly telephone access line charge in the unit.

(2) In a county that does not have a consolidated city or a second class city, ten percent (10%) of the average monthly telephone access line charge in the unit.

(c) In calculating the average monthly telephone access line charge for purposes of this section, the unit imposing the fee shall include the average monthly charge that:

(1) is imposed by providers of interconnected VoIP service to service users whose registered location (as defined in 47 CFR 9.3) is in the unit; and

(2) represents the charge for the service user's access to the interconnected VoIP service.

As added by P.L.91-1988, SEC.5. Amended by P.L.137-2008, SEC.6.

IC 36-8-16-7

Ordinance to change fee

Sec. 7. Except as provided in section 7.5 of this chapter, the fiscal body of a unit may adopt an ordinance to change the amount of the enhanced emergency telephone system fee that it imposed under section 5 of this chapter. However, the new fee must comply with the limitations provided in section 6 of this chapter. In addition, the fiscal body of a unit may not adopt more than one (1) ordinance in any calendar year to change the unit's fee.

As added by P.L.91-1988, SEC.5. Amended by P.L.238-1996, SEC.1; P.L.137-2008, SEC.7.

IC 36-8-16-7.5

Prohibition against increasing fee until unit complies with limitation on number of PSAPs in county

Sec. 7.5. (a) This section applies to a unit that imposes an enhanced emergency telephone system fee under section 5 of this chapter on March 15, 2008.

(b) During the period beginning March 15, 2008, and ending on the date on which:

(1) the unit, if the unit is a county; or

(2) the county in which the unit is located, if the unit is a municipality;

complies with IC 36-8-16.5-51(c), the unit may not adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee imposed by the unit

under section 5 of this chapter. Upon compliance with IC 36-8-16.5-51(c), the unit that, under the terms of the interlocal agreement required by IC 36-8-16.5-51(e), has the authority to impose a fee under this chapter may adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee as necessary to sufficiently fund any PSAP authorized under IC 36-8-16.5-51(c), subject to the limits set forth in section 6 of this chapter.

As added by P.L.137-2008, SEC.8.

IC 36-8-16-8

Ordinance to rescind fee

Sec. 8. The fiscal body of a unit may adopt an ordinance to rescind the enhanced emergency telephone system fee that it imposed under section 5 of this chapter.

As added by P.L.91-1988, SEC.5. Amended by P.L.238-1996, SEC.2.

IC 36-8-16-9

Effective date of ordinance

Sec. 9. An ordinance adopted under section 5, 7, or 8 of this chapter takes effect on the first day of the second month after the month during which the ordinance is adopted.

As added by P.L.91-1988, SEC.5.

IC 36-8-16-10

Rescission of fee; effective date

Sec. 10. An enhanced emergency telephone system fee imposed by the fiscal body of a municipality under section 5 of this chapter is rescinded if the fiscal body of the county in which the municipality is located adopts an ordinance under section 5 of this chapter. The rescission takes effect at the same time that the ordinance adopted by the fiscal body of the county takes effect.

As added by P.L.91-1988, SEC.5. Amended by P.L.238-1996, SEC.3.

IC 36-8-16-11

Service users fee; delinquent fees; enhanced emergency telephone system fee

Sec. 11. (a) The person who uses an exchange access facility is liable for the monthly enhanced emergency telephone system fees, if any, imposed with respect to that facility. Each service supplier shall, on behalf of the unit, collect the fee from those service users to whom it provides exchange telephone service in the unit. The service supplier shall collect the fee, for each month or part of a month an exchange access facility is in service, as part of its normal monthly billing process, and it may list the fee as a separate entry on each bill. If a service supplier receives a partial payment from a service user, the service supplier shall apply the payment against the amount the service user owes the service supplier first.

(b) During January of each year, each service supplier that is required to collect the fee for a particular unit shall provide the

treasurer of the county or the fiscal officer of the municipality with a delinquent fee report. In a county having a consolidated city, each service supplier that is required to collect the fee shall provide the delinquent fee report to the fiscal officer of the consolidated city. On the report, the service supplier shall list the name and address of each service user who is two (2) or more months delinquent in paying the fee. The service supplier shall also indicate the amount of delinquent fees for which each person included on the list is liable.

(c) A service supplier has no obligation to take any legal action to enforce the collection of the fees for which any service user is liable. However, an action may be initiated by the unit that imposed the fees.

(d) Notwithstanding section 5 of this chapter, if one (1) enhanced emergency telephone system serves exchange access facilities in more than one (1) county, the fiscal body of the county that provides the system may adopt an ordinance imposing the enhanced emergency telephone system fee on each person who uses an exchange access facility served by the system. The fee may be imposed under this subsection without regard to whether the service user resides in the county providing the system.

(e) Before an enhanced emergency telephone system fee may be imposed on a service user who resides in a county other than the county providing the system, the fiscal body of the county providing the system must obtain the written approval of the fiscal body of each county in which residents will be subject to the fee. A person who uses an exchange access facility is liable for the monthly enhanced emergency telephone system fee imposed with respect to the exchange access facility.

As added by P.L.91-1988, SEC.5. Amended by P.L.174-1990, SEC.1.

IC 36-8-16-12

Service supplier administrative fee for collection; remittance of collected fees

Sec. 12. Each service supplier that collects the enhanced emergency telephone system fee on behalf of a unit is entitled to a three percent (3%) administrative fee as compensation for collecting the fees. The service supplier shall remit the rest of the fees it collects during a calendar quarter to the treasurer of the county or the fiscal officer of the municipality within ten (10) days after the last day of the quarter. In a county having a consolidated city, the service supplier shall remit the rest of the fees it collects during a calendar quarter to the fiscal officer of the consolidated city within ten (10) days after the last day of the quarter. At the same time the collected fees are remitted, the service supplier shall provide a fee collection report to the auditor of the county or the fiscal officer of the municipality. In a county having a consolidated city, the service supplier shall provide a fee collection report to the fiscal officer of the consolidated city at the same time the collected fees are remitted. The service supplier shall prepare the report on a form provided by the auditor or fiscal officer.

As added by P.L.91-1988, SEC.5.

IC 36-8-16-13

Deposit of fees into emergency telephone system fund

Sec. 13. A county treasurer or municipal fiscal officer to whom enhanced emergency telephone system fees are remitted under section 12 of this chapter shall deposit the fees in a separate fund. The fund shall be known as the _____ (insert name of county or municipality) emergency telephone system fund. The county treasurer or municipal fiscal officer may invest money in the fund in the same manner that other money of the county or municipality may be invested. The county treasurer or municipal fiscal officer shall deposit any income earned from such an investment in the fund.

As added by P.L.91-1988, SEC.5.

IC 36-8-16-14

Use of fees; annual report by county to municipality operating PSAP; audits by state board of accounts; report to regulatory flexibility committee

Sec. 14. (a) The emergency telephone system fees shall be used only to pay for:

- (1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure.

(b) This subsection applies to a county that:

- (1) imposes a fee under section 5 of this chapter; and
- (2) contains a municipality that operates a PSAP (as defined in IC 36-8-16.5-13).

Not later than January 31 of each year, the county fiscal body shall submit to each municipality described in subdivision (2) a report of all expenditures described in subsection (a) paid during the immediately preceding calendar year.

(c) The state board of accounts shall audit the expenditures of emergency telephone system fees made during each of the following calendar years by each unit that imposed a fee under section 5 of this chapter during the following calendar years:

- (1) The calendar year ending December 31, 2005.
- (2) The calendar year ending December 31, 2006.
- (3) The calendar year ending December 31, 2007.

Not later than November 1, 2008, the state board of accounts shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the audits conducted under this subsection.

(d) The state board of accounts annually shall audit the expenditures of emergency telephone system fees made during the immediately preceding calendar year by each unit that imposes a fee under section 5 of this chapter. The state board of accounts shall conduct the first audits required by this subsection with respect to expenditures of emergency telephone system fees made during the calendar year ending December 31, 2008.

(e) In conducting the audits required under subsections (c) and (d), the state board of accounts shall determine whether the expenditures made by each unit are in compliance with:

- (1) subsection (a); and
- (2) section 15 of this chapter, as appropriate.

As added by P.L. 91-1988, SEC. 5. Amended by P.L. 174-1990, SEC. 2; P.L. 156-2002, SEC. 1; P.L. 55-2004, SEC. 1; P.L. 104-2006, SEC. 1; P.L. 137-2008, SEC. 9.

IC 36-8-16-15

Powers of county or municipal unit

Sec. 15. (a) A unit may contract with a service supplier over any term negotiated between the unit and the service supplier and may make payments from the emergency telephone system fund to provide any payments required by the contract.

(b) A unit may negotiate and enter into a lease, contract, or other obligation with a person for the purpose of procuring funds to make the payments required by a contract with a service supplier.

(c) A unit may use money in the emergency telephone system fund to make payments of debt service on any bonds or other obligations issued to purchase, to pay any lease rentals for the lease of, an enhanced emergency telephone system or to make payments required under a lease, contract, or other obligation entered into under subsection (b).

(d) A unit may pledge money in the emergency telephone system fund to make payments permitted by subsection (a), (b), or (c) in the manner set forth in IC 5-1-14. A unit may limit payments permitted by subsection (a), (b), or (c) to money in the emergency telephone system fund. The obligations of the unit to make the payments from that fund do not constitute a debt of the unit. The contract, bond, obligation, or lease must contain a statement to that effect if payments are so limited.

As added by P.L. 91-1988, SEC. 5. Amended by P.L. 2-1989, SEC. 54.

IC 36-8-16-16

Customer data and 911 data base information to implement system; use and disclosure

Sec. 16. (a) Service suppliers shall provide upon request the necessary customer data to implement an enhanced emergency telephone system. Customer data provided to a county or municipality for the purpose of implementing or updating an enhanced emergency telephone system may be used only to identify the telephone location or service user, or both, and may not be used or disclosed by the county or municipality, or its agents or employees, for any other purpose unless the data is used or disclosed under a court order. A person who violates this subsection commits a Class A misdemeanor.

(b) In providing 911 database information as described under section 2 of this chapter, the service supplier shall provide:

- (1) the telephone number service address;
- (2) the class of service; and
- (3) a designation of listed, unlisted, or nonpublished;

for each service user in the county or municipality. The service supplier shall provide this 911 database information to the county or municipality on a quarterly basis. The service supplier may charge a reasonable fee to the political subdivision for the administrative costs of providing the 911 database information. The service supplier may not be held liable in an action arising under this section.

As added by P.L. 91-1988, SEC.5. Amended by P.L. 93-1999, SEC.2; P.L. 14-2000, SEC.84.

IC 36-8-16-17

Unlisted telephone subscribers; inclusion in enhanced telephone system data base

Sec. 17. (a) After May 31, 1988, a contract entered into between a service supplier and a service user who has an unlisted or nonpublished telephone number listing may not include a provision that prohibits the service supplier from providing the service user's telephone number to a unit for inclusion in an enhanced telephone system data base. A service supplier (other than a service supplier who before June 1, 1988, has contracted to not divulge a service user's unlisted or nonpublished telephone number) shall provide the unit the name, telephone number, and address of each service user of the supplier. A unit may not release a telephone number required to be provided under this section to any person for a purpose other than including the number in the enhanced emergency telephone system data base or providing the number to permit a response to a police, fire, medical, or other emergency situation.

(b) A service supplier may amend or terminate a contract with a service user if:

- (1) the contract contains a provision that prohibits the service supplier from providing the user's telephone number to a unit for inclusion in an enhanced telephone system data base;
- (2) the exclusion of the number from the data base would negate the purpose of this chapter; and
- (3) the service user is notified of the proposed amendment or termination of that contract at least one hundred eighty (180)

days before the service supplier takes that action.
As added by P.L.91-1988, SEC.5.

IC 36-8-16-18

Civil actions against service supplier or telephone company operating enhanced emergency telephone system

Sec. 18. A service supplier or a telephone company and its employees, directors, officers, and agents are not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or a telephone company, or of any of its employees, directors, officers, or agents, except for willful or wanton misconduct in connection with developing, adopting, implementing, maintaining, providing data to, or operating an enhanced emergency telephone system, including an emergency telephone notification system (as defined in IC 36-8-21-1).

As added by P.L.91-1988, SEC.5. Amended by P.L.104-2006, SEC.2.

IC 36-8-16-19

Failure to collect or remit fees; offense

Sec. 19. A service supplier that intentionally fails to collect or remit the enhanced emergency telephone system fee as required by this chapter commits a Class A infraction.

As added by P.L.91-1988, SEC.5.