

SENATE BILL NO. 335

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR SEEKINS

Introduced: 2/16/04

Referred: Community and Regional Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to enhanced 911 surcharges and to emergency services dispatch**
2 **systems of municipalities, certain villages, and public corporations established by**
3 **municipalities."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.65.070(d) is amended to read:

6 (d) An action for damages may not be brought against a municipality or any of
7 its agents, officers, or employees if the claim **is based on**

8 (1) [IS BASED ON] a failure of the municipality, or its agents,
9 officers, or employees, when the municipality is neither owner nor lessee of the
10 property involved, **to**

11 (A) [TO] inspect property for a violation of any statute,
12 regulation, or ordinance, or a hazard to health or safety;

13 (B) [TO] discover a violation of any statute, regulation, or
14 ordinance, or a hazard to health or safety if an inspection of property is made;

1 or

2 (C) [TO] abate a violation of any statute, regulation, or
3 ordinance, or a hazard to health or safety discovered on property inspected;

4 (2) [IS BASED UPON] the exercise or performance or the failure to
5 exercise or perform a discretionary function or duty by a municipality or its agents,
6 officers, or employees, whether or not the discretion involved is abused;

7 (3) [IS BASED UPON] the grant, issuance, refusal, suspension, delay,
8 or denial of a license, permit, appeal, approval, exception, variance, or other
9 entitlement, or a rezoning;

10 (4) [IS BASED ON] the exercise or performance during the course of
11 gratuitous extension of municipal services on an extraterritorial basis;

12 (5) [IS BASED UPON] the exercise or performance of a duty or
13 function upon the request of, or by the terms of an agreement or contract with, the
14 state to meet emergency public safety requirements; or

15 (6) [IS BASED ON] the exercise or performance of a duty in
16 connection with **an emergency services dispatch system or** enhanced 911 emergency
17 system and is not based on an intentional act of misconduct or on an act of gross
18 negligence.

19 * **Sec. 2.** AS 29.10.200(37) is amended to read:

20 (37) AS 29.35.131 (**emergency services dispatch system and**
21 enhanced 911 system);

22 * **Sec. 3.** AS 29.35.131(a) is amended to read:

23 (a) A municipality may, by resolution or ordinance, elect to provide **an**
24 **emergency services dispatch system or** an enhanced 911 system at public safety
25 answering points, may purchase or lease the enhanced 911 equipment or service
26 required to establish or maintain an enhanced 911 system at public safety answering
27 points from a local exchange telephone company or other qualified vendor, and may
28 impose an enhanced 911 surcharge, in an amount to be determined by the
29 municipality, on all local exchange access lines that provide telephone service to
30 wireline telephones in the area to be served by the enhanced 911 system. A
31 municipality that provides services under an enhanced 911 system may also by

1 resolution or ordinance impose an enhanced 911 surcharge on each wireless telephone
 2 number that is billed to an address within the enhanced 911 service area. For a
 3 municipality with a population of 100,000 or more, an enhanced 911 surcharge may
 4 not exceed 50 cents per month for each wireless telephone number or 50 cents per
 5 month for each local exchange access line for wireline telephones, **and an additional**
 6 **\$1.35 for emergency services dispatch if that is also provided.** For a municipality
 7 with fewer than 100,000 people, an enhanced 911 surcharge may not exceed **85** [75]
 8 cents per month for each wireless telephone number or **85** [75] cents per month for
 9 each local exchange access line for wireline telephones, **and an additional \$2.15 for**
 10 **emergency services dispatch if that is also provided.** An enhanced 911 **or**
 11 **emergency services dispatch** service area may be all of a city, all of a unified
 12 municipality, or all or part of the area within a borough and may include the
 13 extraterritorial jurisdiction of a municipality in accordance with AS 29.35.020. The
 14 governing body of a municipality shall review an enhanced 911 surcharge **and an**
 15 **emergency services dispatch surcharge** annually to determine whether the current
 16 level of the surcharge is adequate, excessive, or insufficient to meet anticipated
 17 [ENHANCED 911] system needs. The municipality may only use the enhanced 911
 18 surcharge for the enhanced 911 system. **The municipality may only use the**
 19 **emergency services dispatch surcharge for the actual labor and equipment used**
 20 **to provide emergency services dispatch. If, within an emergency services**
 21 **dispatch service area, more than one dispatch center is operated, the emergency**
 22 **service dispatch surcharge shall be apportioned on a per call basis among**
 23 **dispatch centers on an annual basis.**

24 * **Sec. 4.** AS 29.35.131(b) is amended to read:

25 (b) A local exchange telephone company providing service in a municipality
 26 that has imposed an enhanced 911 surcharge **or an emergency services dispatch**
 27 **surcharge** shall bill each month and collect the surcharge from customers in the
 28 enhanced 911 **or emergency services dispatch** service area. A wireless telephone
 29 company that provides telephone service to wireless telephone customers with billing
 30 addresses within the enhanced 911 **or emergency services dispatch** service area shall
 31 impose **the** [AN ENHANCED 911] surcharge each month and collect the surcharge

1 from customers in the enhanced 911 **or emergency services dispatch** service area. A
 2 local exchange telephone customer may not be subject to more than one enhanced 911
 3 surcharge **and more than one emergency services dispatch surcharge** on a local
 4 exchange access line for a wireline telephone. A wireless telephone customer may not
 5 be subject to more than one enhanced 911 surcharge **and more than one emergency**
 6 **services dispatch surcharge** for each wireless telephone number. A customer that
 7 has more than 100 local exchange access lines from a local exchange telephone
 8 company in the municipality is liable for the enhanced 911 surcharge **and for the**
 9 **emergency services dispatch surcharge** only on 100 local exchange access lines.

10 * **Sec. 5.** AS 29.35.131(c) is amended to read:

11 (c) A local exchange telephone company or wireless telephone company shall
 12 include the appropriate enhanced 911 surcharge **and emergency services dispatch**
 13 **surcharge**, stated separately and included in the total amount owed, in the bills
 14 delivered to its customers. The Regulatory Commission of Alaska may not consider
 15 the enhanced 911 surcharge **or emergency services dispatch surcharge** as revenue of
 16 the telephone company and has no jurisdiction over an enhanced 911 system. A
 17 customer is liable for payment of the enhanced 911 surcharge **and the emergency**
 18 **services dispatch surcharge** in the amounts billed by the telephone company until the
 19 amounts have been paid to the telephone company.

20 * **Sec. 6.** AS 29.35.131(d) is amended to read:

21 (d) A local exchange telephone company or wireless telephone company that
 22 has collected the enhanced 911 surcharge **or the emergency services dispatch**
 23 **surcharge** shall remit the amounts collected to the municipality no later than 60 days
 24 after the end of the month in which the amount was collected. From each remittance
 25 made in a timely manner under this subsection, the telephone company is entitled to
 26 deduct and retain the greater of one percent of the collected amount or \$150 as the cost
 27 of administration for collecting the enhanced 911 surcharge, **and an additional**
 28 **amount of one percent of the collected amount of the emergency services dispatch**
 29 **surcharge or \$150 as the cost of administration for collecting the emergency**
 30 **services dispatch surcharge**. In addition, a wireless telephone company is entitled to
 31 full recovery of the recurring and nonrecurring costs associated with implementation

1 and operation of Phase I E911 service as allowed under Federal Communications
 2 Commission proceedings entitled "Revision of the Commission's Rules to Ensure
 3 Compatibility with Enhanced 9-1-1 Emergency Calling Systems" (CC Docket No. 94-
 4 102; RM-8143).

5 * **Sec. 7.** AS 29.35.131(e) is amended to read:

6 (e) A local exchange telephone company or wireless telephone company is not
 7 obligated to take legal action to enforce collection of the enhanced 911 surcharge **or**
 8 **the emergency services dispatch surcharge**. However, if a telephone company is
 9 attempting to collect an unpaid debt from a customer, the telephone company shall
 10 also attempt to collect any unpaid [ENHANCED 911] surcharge that the customer
 11 owes. If a customer pays a portion of a bill that includes **a** [AN ENHANCED 911]
 12 surcharge, the amount paid shall be prorated between the telephone company and the
 13 [ENHANCED 911] surcharge. The telephone company shall annually provide the
 14 municipality with a list of the amounts due for the nonpayment of [ENHANCED 911]
 15 surcharges, together with the names and addresses of those customers who carry a
 16 balance that can be determined by the telephone company to be for the nonpayment of
 17 the [ENHANCED 911] surcharges. The telephone company is not liable for
 18 uncollected amounts.

19 * **Sec. 8.** AS 29.35.131(f) is amended to read:

20 (f) The municipality may, at its own expense, require an annual audit of a
 21 local exchange telephone company's or wireless telephone company's books and
 22 records concerning the collection and remittance of the enhanced 911 surcharge **or the**
 23 **emergency services dispatch surcharge**.

24 * **Sec. 9.** AS 29.35.133(a) is amended to read:

25 (a) The establishment, funding, use, operation, or maintenance of enhanced
 26 911 **or emergency services dispatch** systems and all activities associated with those
 27 actions are specifically found to be within the ambit of AS 09.50.250(1) and
 28 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
 29 service supplier, local exchange telephone company, or wireless telephone company
 30 and their employees and agents are also immune from tort liability that might
 31 otherwise be incurred in the course of installing, training, maintaining, or providing

1 enhanced 911 systems or transmitting or receiving calls on the system.

2 * **Sec. 10.** AS 29.35.137 is amended by adding a new paragraph to read:

3 (12) "emergency services dispatch" means a service offered by a
4 municipality that provides continuous day and night dispatch of emergency medical,
5 police, fire, or rescue services using enhanced 911 facilities.