

FIRST REGULAR SESSION

# HOUSE BILL NO. 645

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SCHIEFFER (Sponsor), KORMAN,  
FAITH AND HOUGHTON (Co-sponsors).

1400L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 190.300, 190.305, and 190.335, RSMo, and to enact in lieu thereof three new sections relating to taxes for emergency telephone service.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 190.300, 190.305, and 190.335, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 190.300, 190.305, and 190.335, to read as follows:

190.300. As used in sections 190.300 to 190.320, the following terms and phrases mean:

(1) "**Alternative telecommunications connection**", **each account or number having a primary place of use or billing address within the jurisdiction of the public agency and assigned to:**

(a) **A customer of commercial mobile service as defined in 47 U.S.C. Section 332, as amended, and in Federal Communications Commission rules, as amended, except for the following:**

a. **Services whose customers do not have access to emergency telephone service or a service similar to emergency telephone service;**

b. **Communications channels suitable only for data transmission;**

c. **Wireless roaming services or other nonlocal radio access line services; or**

d. **Private telecommunications systems;**

(b) **A customer of voice-over internet protocol (VoIP) service that enables real-time voice communications, requires a broadband connection from the customer's location, requires internet protocol-compatible customer premise equipment, permits users to**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **receive calls that originate on the public switched telephone network or to terminate calls**  
17 **to the public switched telephone network, and has the capability to place a 911 call; or**

18 **(c) A customer of prepaid wireless telephone service;**

19 **(2) "Emergency telephone service", a telephone system utilizing a single three digit**  
20 **number "911" for reporting police, fire, medical or other emergency situations;**

21 **[(2)] (3) "Emergency telephone tax", a tax to finance the operation of emergency**  
22 **telephone service;**

23 **[(3)] (4) "Exchange access facilities", all facilities provided by the service supplier for**  
24 **local telephone exchange access to a service user;**

25 **[(4)] (5) "Governing body", the legislative body for a city, county or city not within a**  
26 **county;**

27 **[(5)] (6) "Person", any individual, firm, partnership, copartnership, joint venture,**  
28 **association, cooperative organization, corporation, municipal or private, and whether organized**  
29 **for profit or not, state, county, political subdivision, state department, commission, board, bureau**  
30 **or fraternal organization, estate, trust, business or common law trust, receiver, assignee for the**  
31 **benefit of creditors, trustee or trustee in bankruptcy, or any other service user;**

32 **[(6)] (7) "Public agency", any city, county, city not within a county, municipal**  
33 **corporation, public district or public authority located in whole or in part within this state which**  
34 **provides or has authority to provide fire fighting, law enforcement, ambulance, emergency**  
35 **medical, or other emergency services;**

36 **[(7)] (8) "Service supplier", any person providing exchange telephone services to any**  
37 **service user in this state or providing alternative telecommunications connections in this**  
38 **state;**

39 **[(8)] (9) "Service user", any person, other than a person providing pay telephone service**  
40 **pursuant to the provisions of section 392.520 not otherwise exempt from taxation, who is**  
41 **provided exchange telephone service in this state or an alternative telecommunications**  
42 **connection in this state;**

43 **[(9)] (10) "Tariff rate", the rate or rates billed by a service supplier of exchange**  
44 **telephone services to a service user as stated in the service supplier's tariffs, approved by the**  
45 **Missouri public service commission which represent the service supplier's recurring charges for**  
46 **exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar**  
47 **charges whatsoever.**

190.305. 1. In addition to its other powers for the protection of the public health, a  
2 governing body may provide for the operation of an emergency telephone service and may pay  
3 for it by levying an emergency telephone tax for such service in those portions of the governing  
4 body's jurisdiction for which emergency telephone service has been contracted. The governing

5 body may do such other acts as are expedient for the protection and preservation of the public  
6 health and are necessary for the operation of the emergency telephone system. The governing  
7 body is hereby authorized to levy the tax in an amount not to exceed fifteen percent of the tariff  
8 local service rate, as defined in section 190.300, or seventy-five cents per access line per month,  
9 whichever is greater, except as provided in sections 190.325 to 190.329, in those portions of the  
10 governing body's jurisdiction for which emergency telephone service has been contracted.  
11 **Beginning on August 28, 2011, the governing body is hereby authorized to levy an**  
12 **additional tax not to exceed seventy-five cents per month per alternative**  
13 **telecommunications connection.** In any county of the third classification with a population of  
14 at least thirty-two thousand but not greater than forty thousand that borders a county of the first  
15 classification, a governing body of a third or fourth class city may, with the consent of the county  
16 commission, contract for service with a public agency to provide services within the public  
17 agency's jurisdiction when such city is located wholly within the jurisdiction of the public  
18 agency. Consent shall be demonstrated by the county commission authorizing an election within  
19 the public agency's jurisdiction pursuant to section 190.320. Any contract between governing  
20 bodies and public agencies in existence on August 28, 1996, that meets such criteria prior to  
21 August 28, 1996, shall be recognized if the county commission authorized the election for  
22 emergency telephone service and a vote was held as provided in section 190.320. The governing  
23 body shall provide for a board pursuant to sections 190.327 and 190.328. The board of any  
24 county of the first classification with more than one hundred four thousand six hundred but fewer  
25 than one hundred four thousand seven hundred inhabitants shall provide services to a city located  
26 in more than one county only after making an agreement or contracting with the city for such  
27 services, provided that any agreement or contract in effect, as of January 1, 2006, shall continue  
28 until such time as a successor agreement or contract is entered into by the board and city and  
29 such agreement or contract is to provide services for a period of three or more years.

30 2. The tax shall be utilized to pay for the operation of emergency telephone service and  
31 the operational costs associated with the answering and dispatching of emergency calls as  
32 deemed appropriate by the governing body, and may be levied at any time subsequent to  
33 execution of a contract with the provider of such service at the discretion of the governing body,  
34 but collection of such tax shall not begin prior to twenty-seven months before operation of the  
35 emergency telephone service and dispatch center. **However, if a public agency provides such**  
36 **service itself and does not contract with a provider for such service, such public agency**  
37 **may also use the emergency telephone tax authorized in this section for the costs of**  
38 **upgrading and replacing worn or obsolete communications equipment.**

39           **3. In the case of a percentage tax on local telephone exchange service**, such tax shall  
40 be levied only upon the tariff rate. No tax shall be imposed upon more than one hundred  
41 exchange access facilities or their equivalent per person per location.

42           4. Every billed service user is liable for the tax until it has been paid to the service  
43 supplier.

44           5. The duty to collect the tax from a service user shall commence at such time as  
45 specified by the governing body in accordance with the provisions of sections 190.300 to  
46 190.320. The tax required to be collected by the service supplier shall be added to and may be  
47 stated separately in the billings to the service user.

48           6. Nothing in this section imposes any obligation upon a service supplier to take any  
49 legal action to enforce the collection of the tax imposed by this section. The service supplier  
50 shall provide the governing body with a list of amounts uncollected along with the names and  
51 addresses of the service users refusing to pay the tax imposed by this section, if any.

52           7. The tax imposed by this section shall be collected insofar as practicable at the same  
53 time as, and along with, the charges for the tariff rate in accordance with the regular billing  
54 practice of the service supplier. The tariff rates determined by or stated on the billing of the  
55 service supplier are presumed to be correct if such charges were made in accordance with the  
56 service supplier's business practices. The presumption may be rebutted by evidence which  
57 establishes that an incorrect tariff rate was charged.

190.335. 1. In lieu of the tax levy authorized under section 190.305 for emergency  
2 telephone services, the county commission of any county may impose a county sales tax for the  
3 provision of central dispatching of fire protection, including law enforcement agencies,  
4 emergency ambulance service or any other emergency services, including emergency telephone  
5 services, which shall be collectively referred to herein as "emergency services", and which may  
6 also include the purchase and maintenance of communications and emergency equipment,  
7 including the operational costs associated therein, in accordance with the provisions of this  
8 section. **The county commission of any county may also impose an additional county excise  
9 tax for such purposes on each antenna used as commercial mobile service equipment, but  
10 such additional tax shall not exceed one dollar fifty cents per antenna. As used in this  
11 section, "antenna used as commercial mobile service equipment" means an antenna used  
12 by the providers of commercial mobile services as defined in 47 U.S.C. Section 332, as  
13 amended, and in Federal Communications Commission rules, as amended, except for the  
14 following:**

15           **(1) Services whose customers do not have access to emergency telephone service,**  
16 **as such term is defined in section 190.300, or a service similar to emergency telephone**  
17 **service;**

- 18           **(2) Communications channels suitable only for data transmission;**
- 19           **(3) Wireless roaming services or other nonlocal radio access line services; or**
- 20           **(4) Private telecommunications systems.**

21           2. Such county commission may, by a majority vote of its members, submit to the voters  
 22 of the county, at a public election, a proposal to authorize the county commission to impose a  
 23 tax **or taxes** under the provisions of this section. If the residents of the county present a petition  
 24 signed by a number of residents equal to ten percent of those in the county who voted in the most  
 25 recent gubernatorial election, then the commission shall submit such a proposal to the voters of  
 26 the county.

27           3. **(1)** The [ballot] **ballots** of submission shall be in substantially the following [form]  
 28 **forms:**

29           **(a) For a county sales tax:**

30           Shall the county of ..... (insert name of county) impose a county  
 31 sales tax of ..... (insert rate of percent) percent for the purpose of providing central  
 32 dispatching of fire protection, emergency ambulance service, including emergency telephone  
 33 services, and other emergency services?

34   G YES   G NO

35  
 36           **(b) For a county excise tax on commercial mobile service equipment:**

37           **Shall the county of ..... (insert name of county) impose a county excise tax not to**  
 38 **exceed one dollar fifty cents per antenna on each antenna used as commercial mobile**  
 39 **service equipment, for the purpose of providing central dispatching of fire protection,**  
 40 **emergency ambulance service, including emergency telephone services, and other**  
 41 **emergency services?**

42           **(2)** If a majority of the votes cast on the proposal by the qualified voters voting thereon  
 43 are in favor of the proposal, then the ordinance shall be in effect as provided [herein] **in this**  
 44 **section.** If a majority of the votes cast by the qualified voters voting are opposed to the proposal,  
 45 then the county commission shall have no power to impose the tax authorized by this section  
 46 unless and until the county commission shall again have submitted another proposal to authorize  
 47 the county commission to impose the tax under the provisions of this section, and such proposal  
 48 is approved by a majority of the qualified voters voting thereon.

49           4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from  
 50 the sale at retail of all tangible personal property or taxable services at retail within any county  
 51 adopting such tax, if such property and services are subject to taxation by the state of Missouri  
 52 under the provisions of sections 144.010 to 144.525. **Neither** the sales tax **nor the excise tax**

53 shall [not] be collected prior to thirty-six months before operation of the central dispatching of  
54 emergency services.

55           5. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall  
56 apply to the tax imposed under this section.

57           6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year  
58 in which the tax imposed pursuant to this section for emergency services is certified by the board  
59 to be fully operational. Any revenues collected from the tax authorized under section 190.305  
60 shall be credited for the purposes for which they were intended.

61           7. At least once each calendar year, the board shall establish a tax rate, not to exceed the  
62 amount authorized, that together with any surplus revenues carried forward will produce  
63 sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess  
64 of that necessary within a given year shall be carried forward to subsequent years. The board  
65 shall make its determination of such tax rate each year no later than September first and shall fix  
66 the new rate which shall be collected as provided in this act. Immediately upon making its  
67 determination and fixing the rate, the board shall publish in its minutes the new rate, and it shall  
68 notify every retailer by mail of the new rate.

69           8. Immediately upon the affirmative vote of voters of such a county on the ballot  
70 proposal to establish a county sales tax pursuant to the provisions of this section, the county  
71 commission shall appoint the initial members of a board to administer the funds and oversee the  
72 provision of emergency services in the county. Beginning with the general election in 1994, all  
73 board members shall be elected according to this section and other applicable laws of this state.  
74 At the time of the appointment of the initial members of the board, the commission shall  
75 relinquish and no longer exercise the duties prescribed in this chapter with regard to the  
76 provision of emergency services and such duties shall be exercised by the board.

77           9. The initial board shall consist of seven members appointed without regard to political  
78 affiliation, who shall be selected from, and who shall represent, the fire protection districts,  
79 ambulance districts, sheriff's department, municipalities, any other emergency services and the  
80 general public. This initial board shall serve until its successor board is duly elected and  
81 installed in office. The commission shall ensure geographic representation of the county by  
82 appointing no more than four members from each district of the county commission.

83           10. Beginning in 1994, three members shall be elected from each district of the county  
84 commission and one member shall be elected at large, such member to be the chairman of the  
85 board. Of those first elected, four members from districts of the county commission shall be  
86 elected for terms of two years and two members from districts of the county commission and the  
87 member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of  
88 office shall be four years.

89           11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary,  
90 in any county of the first classification with more than two hundred forty thousand three hundred  
91 but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone  
92 service 911 board appointed by the county under section 190.309 which is in existence on the  
93 date the voters approve a sales tax under this section shall continue to exist and shall have the  
94 powers set forth under section 190.339.

95           12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the  
96 contrary, in any county of the second classification with more than fifty-four thousand two  
97 hundred but fewer than fifty-four thousand three hundred inhabitants that has approved a sales  
98 tax under this section, the county commission shall appoint the members of the board to  
99 administer the funds and oversee the provision of emergency services in the county.

100           (2) The board shall consist of seven members appointed without regard to political  
101 affiliation. Each member shall be one of the following:

- 102           (a) The head of any of the county's fire protection districts, or a designee;  
103           (b) The head of any of the county's ambulance districts, or a designee;  
104           (c) The county sheriff, or a designee;  
105           (d) The head of any of the police departments in the county, or a designee; and  
106           (e) The head of any of the county's emergency management organizations, or a designee.

107

108           (3) Upon the appointment of the board under this subsection, the board shall have the  
109 power provided in section 190.339 and shall exercise all powers and duties exercised by the  
110 county commission under this chapter, and the commission shall relinquish all powers and duties  
111 relating to the provision of emergency services under this chapter to the board.