

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

3. **Committee** Senate Commerce and Labor

4. **Title** Wireless E-911 Surcharge; Transfer of Collection

2. **Bill Number** SB 1123

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would transfer the collection of the wireless E-911 surcharge from the Wireless E-911 Services Board (the "Board") to TAX.

Under current law, each wireless service carrier and reseller must collect a surcharge of \$0.75 per month on each number of its postpaid customers through its regular billing, and may retain an amount equal to three percent of the amount collected as dealer compensation. The revenues from the surcharge are deposited into the Wireless E-911 Fund.

This is a recommendation of the Governor McDonnell's Government Reform & Restructuring Commission.

The effective date of this bill is not specified.

Budget amendment necessary: No.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

This bill would shift the collection of the wireless E-911 surcharge, currently administered by the Wireless E-911 Services Board, to TAX. TAX would incur administrative costs of an estimated \$119,000 in Fiscal Year 2011 and \$30,000 in Fiscal Year 2012 to implement the transfer of the wireless E-911 surcharge. TAX would incur costs of approximately \$44,000 in Fiscal Year 2012 and each Fiscal Year thereafter to administer the tax. TAX would receive revenues from the wireless E-911 surcharge to cover the direct costs of administering the surcharge.

As all or substantially all of the 42 carriers that remit the wireless E-911 surcharge also remit the Communications Sales and Use Tax, which is collected by TAX, the wireless E-

911 surcharge would likely be remitted using the Communications Sales and Use Tax return that carriers currently file with TAX. This would eliminate one of the returns that the members of the industry are required to file. Additionally, TAX already has a Communications Tax audit unit comprising of 2 auditors and 1 senior auditor. Given the similarity of the taxes and fees, TAX anticipates that auditing the wireless E-911 surcharge would be incorporated into the audit of the other communications taxes. This would relieve the Board of the necessity of establishing an audit process and taxpayers would not be subject to two audits of the same information.

Revenue Impact

As TAX would administer the tax in substantially the same manner as Wireless E-911 Services Board has, the bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Wireless E-911 Services Board

10. Technical amendment necessary: Yes.

As TAX is able to implement this proposal without the exemption provided in the second enactment clause, the following technical amendment is suggested:

Page 2, Line 66, After beginning of line
Strike: Strike Lines 66 through 69.

11. Other comments:

Background

Under current law, each wireless service carrier and reseller must collect a surcharge of \$0.75 per month on each wireless service number of its postpaid customers through its regular billing, and may retain an amount equal to three percent of the amount collected as dealer compensation. The surcharge is administered by the Wireless E-911 Services Board ("Board"), and the revenues are deposited into the Wireless E-911 Fund.

TAX currently administers the landline E-911 tax paid by landline carriers, which is remitted using the Communications Sales and Use Tax return. Effective January 1, 2011, a prepaid wireless E-911 fee of \$0.50 is imposed on each retail purchase of prepaid wireless calling service. The prepaid wireless E-911 fee is administered by TAX and collected by retail merchants at the point of sale and separately stated on the invoice or receipt or otherwise disclosed to the customer. Prior to January 1, 2011, prepaid wireless calling service was subject to the wireless E-911 surcharge collected by carriers and resellers and remitted to the Board.

According to the Auditor of Public Accounts Fiscal Year 2009 Report on the Wireless E-911 Services Board, 42 different carriers remit the wireless E-911 surcharge along with a self-reported schedule each month. The Wireless E-911 Fund received approximately

\$52.3 million in Fiscal Year 2009 according to the Wireless E-911 Board's Fiscal Year 2009 Annual Report. In the report, the Auditor of Public Accounts recommended that an audit process be established for the wireless E-911 surcharge. In making this recommendation, the Auditor of Public Accounts acknowledged that the Board lacked expertise in monitoring self-reported taxes and fees and suggested that the collection of the fee be moved to TAX, which already has audit procedures for other taxes in place.

The Board is also responsible for allocating the wireless E-911 funds and managing moneys appropriated for emergency telecommunication services in local jurisdictions. After the Board subtracts sufficient funds for various appropriations provided in the Appropriations Act, the Board provides payments to wireless service providers based on their estimated allowable wireless E-911 costs, distributes revenues based on a formula to localities for the wireless E-911 costs of their public safety answering point operators, and oversees a grant program.

Proposal

This bill would transfer the collection of the wireless E-911 surcharge from the Wireless E-911 Services Board (the "Board") to TAX.

This is a recommendation of Governor McDonnell's Government Reform & Restructuring Commission, which worked to develop proposals for reforming state government to reduce costs and improve service delivery. On December 21, 2010, the Commission submitted its full report to the Governor with 133 recommendations and observations, including the transfer of the administration of the Motor Vehicle Rental Tax to TAX.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1284 would provide that the prepaid commercial mobile radio service for the purposes for the E-911 fees and prepaid calling service for the purposes of the Communications Sales and Use Tax may include service sold in a predetermined unit measured in units of time, not to exceed one month.

cc : Secretary of Finance

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