

House Bill 256 Overview

Background

Legislation was passed in 2008 to assess a 9-1-1 fee on prepaid wireless phones. A menu of options were provided for prepaid wireless suppliers to use to determine the fees owed for the wireless service sold. The Department of Community Affairs (DCA) was tasked with monitoring compliance with the statutory requirements and receiving the fees. The legislative intent was that the fee revenue was to be used to fund a grant program administered by DCA to assist local governments in the implementation of enhanced 9-1-1 services. To date, approximately \$28 million has been collected, but not one cent has been appropriated for the intended purpose of a grant program to local governments. Those funds have been deposited in the state general fund and used for other purposes.

As the market for cell phones and telephone land lines shifts, the resources for the operation of 9-1-1 centers have declined. It is estimated that prepaid wireless phones now represent over 20% of the overall wireless cell phone market.

The prepaid wireless providers and ACCG agree that the current system is inefficient and burdensome. There are providers that do not comply with the law and there is no monitoring or enforcement. The National Conference of State Legislatures developed model legislation to offer a more coordinated approach to the assessment and collection of these fees on a national basis.

This new approach is to collect the fees at the point of sale, remit the fees to the Department of Revenue (DOR) much like sales tax, to be distributed per a formula based on population of the Public Safety Answering Point (PSAP).

It is estimated that this new approach will more than double the amount of revenue received on an annual basis, projections indicate approximately \$20 million per year compared to the \$8 million currently received. Not only will this provide a stable source of revenue for the 9-1-1 centers it is also more transparent. Customers will be charged the fee when they purchase a prepaid cell phone or reload the minutes and the charge will be reflected separately on the receipt. Every customer who may access 9-1-1 services will pay the fee and share in paying for the system. Currently, we have no way of knowing if this segment of the cell phone market is paying their share for the services.

Summary of Legislation

- This bill repeals the previous statute regarding collection of the 911 fee on prepaid wireless phones. The new bill sets out a new system to collect the prepaid fees at the point of sale.
- A 75 cent fee will be collected at the retail point of sale for each phone sold and each purchase of minutes to reload a prepaid wireless phone.
- 9-1-1 fees are collected at the retail level and remitted to the DOR just like sales tax.

- In order for the funds to be treated as a local tax, counties and municipalities must adopt an ordinance or resolution imposing the fee and file with the DOR.
- Fees will be distributed back to the counties and municipalities that adopted the ordinance or resolution on an annual basis.
- The allocation of funds will be based on the population of the PSAP. These funds will not be allocated based on point of sale collections.
- To ensure a statewide collection system the provision the language was added in (b)(2) that if a county or municipality fails to adopt an ordinance the fee would be retained by the state for the purpose of a grant program to improve 9-1-1 systems. It is highly unlikely that any jurisdiction will fail to adopt a resolution to collect the fee, but if for some reason it happens, that portion of the fee would go the state just as it does under the current statute.
- Provides that 3% of fees collected by retailer can be retained by the retailer to offset the costs of collecting the fee.
- The formula for share of the funds collected on an annual basis is the population of the jurisdiction(s) operating the PSAP and denominator which is the total population of the state.
- Funds will be distributed annually on or before October 15 of year year.
- Prior to distribution the DOR may retain not more than 2% of the total amount collected for the cost of administering the program.
- **IF there is a jurisdiction that does not adopt the resolution the funds allocated according to the formula for that jurisdiction will be deposited in the general fund and be administered through a grants to counties program with the purpose of operations of PSAPS and the improvement of 911.**
- The effective date of the bill in January 1, 2012