

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1564

Amendment Number: H1

Bill Subtitle: TO ESTABLISH THE PUBLIC SAFETY ACT OF 2019; TO AMEND THE ARKANSAS PUBLIC SAFETY COMMUNICATIONS ACT OF 1985; AND TO DEVELOP A NEXT GENERATION 911 SYSTEM.

Basic Change :

Engrossment 03/12/19 --- House Amendment 1 --- Amends the bill to provide that the provisions of the bill is to provide the best public safety communications and services possible to all Arkansas and first responders by: (1) developing a next generation 911 system; (2) replacing the Arkansas Emergency Telephone Services Board with the Arkansas 911 Board; and (3) providing upgrades and maintenance funding for the Arkansas Wireless Information Network.

The amended bill also provides for the levy of a commercial mobile radio service public safety charge in an amount of one dollar and thirty cents (\$1.30) per month per commercial mobile radio service connection that has a place of primary use within the State of Arkansas. This charge replaces the commercial mobile radio service emergency telephone service charge of sixty-five cents (65¢) per month. The voice over internet protocol service public safety charge is also levied at one dollar and thirty cents (\$1.30) per month.

The amendment provides for the distribution of the tariff fees with not less than eighty-three and seventy-five-hundredths percent (83.75%) of the total monthly revenues to be distributed on a population basis to each political subdivision operating a public safety answering point that has the capability of receiving 911 calls; not more than fifteen percent (15%) of the total monthly revenues to be used to purchase a statewide infrastructure for next generation 911, including without limitation ESInet, connectivity costs, and next generation 911 components and equipment; and not more than one and one-fourth percent (1.25%) of the monthly revenues may be used by the Arkansas 911 Board to compensate the independent auditor and for administrative expenses, staff, and consulting services.

Original Bill --- HB1564 would establish the "Public Safety Act of 2019", amend the provisions of the Arkansas Public Safety Communications Act of 1985, and will allow development of the next generation 911 system in the state.

HB1564 would provide for the development of a new 911 system by providing upgrades and maintenance funding for the Arkansas Wireless Information Network, maintaining certain statewide emergency technologies, and providing funding for further deploying rural broadband as the appropriate platform for emergency networks. This bill also replaces Arkansas Emergency Telephone Services Board with the Arkansas 911 Board. The Arkansas 911 Board would be chaired by the Director of the Arkansas Department of Emergency Management with the charge to establish guidelines for Arkansas public safety answering points in accordance with the Association of Public-Safety Communications Officials and the National Emergency Number Association.

The bill renames Subchapter 3 of Title 12, Chapter 10 to be known as the "Arkansas Public Safety Communications and Next Generation 911 Act of 2019". The bill adds updated definitions and adds a definition for "ESInet" referring to a managed internet protocol network that is used for emergency services communications that can be shared by all public safety agencies and that provides the internet protocol transport infrastructure upon which independent application platforms and core services can be deployed, including without limitation those services necessary for providing next generation 911 services. A "Next generation 911" system refers to a secure, internet protocol based, open standards system, comprised of hardware, software, data, and operation policies and

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procedures. The system would provide standardized interfaces from emergency call and message services to support emergency communications allowing all types of emergency calls, including voice, text, data, and multimedia information. The bill would create the public safety answering points serving as communications centers and the answering point for each city and county emergency call services. The plan to fund no more than seventy-seven (77) public safety answering points within the State of Arkansas will be developed no later than January 1, 2022. All public safety answering points would be capable of transmitting requests for law enforcement, firefighting, disasters, major emergency responses, emergency medical or ambulance services, or other emergency services.

To provide funding to support the system, the bill would repeal and replace the state universal service fee levied under § 23-17-18 404(b)(2); the local 911 tariff levied under § 12-10-318; and the emergency telephone service charges levied under § 12-10-318.

The bill would replace the fees with a uniform and consolidated public safety connectivity charge. Telecommunications services suppliers would be assessed a consolidated and uniform public safety connectivity charge of two dollars twenty-five cents (\$2.25) per month per access line that has a primary place of use within the state. The public safety connectivity charge would appear as a single line item on a subscriber's bill and assessed on no more than two hundred (200) access lines per service. The public safety connectivity charge would begin on December 1, 2019 with service suppliers remitting the assessments for each calendar month by the fifteenth day of the following month with the revenues being deposited to the Arkansas Public Safety Trust Fund.

The fees collected for the next generation 911 system would also be applicable to prepaid wireless telecommunications services and would replace the existing levy of sixty-five cents (\$.65) per purchase of prepaid services. For each retail transaction occurring in the state, a seller of prepaid wireless services would collect from the consumer a public safety connectivity charge equal to ten percent (10%) of the sales price of the prepaid wireless service being purchased. The charge would be stated separately on the invoice to the customer and would not be included in the base for calculating any other tax or fee due. The retail seller of the prepaid services would receive a prompt payment discount of two percent (2%) of the prepaid wireless public safety connectivity charge collected from their customers. The retailer would submit the payments of the charges on prepaid wireless services to the Department of Finance and Administration (DFA).

The act would be effective 90 days after final adjournment of the 92nd General Assembly. The levy of the uniform public safety connectivity charge would begin on December 1, 2019.

Revenue Impact :

\$10.1 Million Annual Increase in Fees Levied on Prepaid Wireless Telecommunications Services

During FY2018, DFA collected \$5.2 Million in 911 fees on prepaid wireless telecommunications services from retailers. The fee is collected at \$.65 per purchase transaction and represented 7,948,032 purchases in FY2018. DFA does not have data to establish an actual average sales price for the services when purchased by consumers. The services are sold in various levels of service minutes at the option of the purchaser.

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For the estimated revenue impact, it is assumed the average purchase price of prepaid wireless services of \$20 per purchase transaction with the same number of transactions occurring on an annual basis (7,948,032). A higher or lower average sales price for each transaction or an increase or decrease in the volume of sales of prepaid wireless services would result in a different impact calculation.

Taxpayer Impact :

Taxpayers utilizing prepaid wireless services will see an increase in the cost to each transaction. Other telecommunications customers will have increased fees on their monthly billing statements

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to DFA's tax remittance and processing tax system will be required to account for the change in taxation. Notification to the businesses selling prepaid wireless telecommunications services will be required.

Other Comments :

The bill provides that the 911 fee collection be reported and paid electronically. Currently, these fees are reported and remitted utilizing a consolidated return in which all the taxes reported are not required to be remitted electronically. It would be appropriate to state that 911 fees along with any associated taxes, fees, or charges be reported electronically.

Legal Analysis :

HB1564 establishes a Next Generation 911 System and provides additional funding for the current 911 systems in Arkansas. The bill eliminates the Arkansas Emergency Services Board and transfers its functions to the Arkansas 911 Board. The 911 Board is directed to distribute 911 funding. As amended, HB1564-H1 retains the current tariffs imposed by local governments to fund 911 services. These tariffs were to be repealed in the bill as originally filed.

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The bill increases the current 911 charge on cell phones, VOiP, and non-traditional telephone service from 65¢ per month, per connection to \$1.30 per month per connection. The bill as originally filed would have replaced this charge with a new \$2.25 per month charge.

As originally introduced, the bill replaced the current 65¢ per retail transaction charge for prepaid wireless with a new fee equal to 10% of the value of the retail transaction. Amendment H-1 retains this 10% fee but moves the effective date of this new fee from December 1, 2019 to October 1, 2019.

HB1564, as originally introduced, proposed a new \$2.25 per month fee to fund 911 service. Amendment H-1 removes this fee from the bill. Amendment H-1 provides that the additional 911 fees imposed by HB1564 will be deposited into a new fund called the Arkansas Public Safety Trust Fund. Currently, money to support 911 services is distributed by the Arkansas Emergency Services Board. The bill replaces the Arkansas Emergency Services Board with a new 911 Board.

Amendment H-1 provides that the 911 Board shall distribute the revenues raised to fund 911 services as follows:

- Beginning December 2019 - up to \$14,000 per month to the Arkansas Public Safety Trust Fund to provide administrative support for the Fund.
- Beginning July 2020 - Up to \$62,500 per fiscal quarter to the Arkansas Commission on Law Enforcement Standards and Training.
- Beginning July 2020 - Up to \$2M per fiscal quarter to the Arkansas Wireless Information Network for upgrades and maintenance.
- All remaining money collected from these fees shall be transferred to the Arkansas 911 Board.

DFA is affected by this bill because DFA currently collects the 65¢ per transaction fee on prepaid wireless service. The retailer of the prepaid wireless service currently collects the fee and remits those collections to DFA with the retailer's monthly sales tax collections. DFA currently remits those collections to the Arkansas Emergency Services Board. For collections on and after October 1, 2019, DFA will begin to remit proceeds from the charge on prepaid wireless to the 911 Board beginning with collections on and after October 1, 2019.

Technical Issues

Amendment H-1 does not provide an effective date for the increased fee for cell phones VOiP, and non-traditional telephone service. As written, this increased fee will become effective 90 days after adjournment.

H-1 amendment to Page 24, lines 1 through 36 requires clarification. Subdivisions (b)(1)(D), (b)(2)(A), and (b)(2)(B) provide specific treatment and deposit instructions for the charges imposed on cell phones imposed in (b)(1)(A) but not for the charges on VOiP and non-traditional phones imposed in (b)(1)(B) and (b)(1)(C). The references in (b)(1)(D), (b)(2)(A) and (b)(2)(B) to "the service charge levied in subdivision (b)(1)(A)" should be amended to read "the service charge levied in subdivision

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(b)(1)(A),(B) and (C)". This change will ensure the proper deposit of the fees charged for VOIP and non-traditional phone service.

Section 4 of the bill amends § 12-10-326 to add a new subdivision § 12-10-326(a)(2)(C). This amendment contains an incorrect reference. The amendment provides that a sale of a prepaid wireless service is treated as occurring in this state if it is a retail transaction "taxable under § 26-52-106". § 26-52-106 does not levy a tax or provide when a transaction is taxable. Instead, it provides limitations on the cost of administering the state sales tax. It is likely that the reference should have been "§ 26-53-106" which is the Arkansas Code provision imposing use tax on purchases of property and services from an out-of-state vendor.

The fund distribution in amendment H-1 is unclear. Specifically, the language reading:

"(f) Between December 2019 and June 2020, the Arkansas Public Safety Trust Fund shall withhold moneys necessary to make the distributions under subsections (d) and (e) of this section."

and

"(h) Subsections (d)-(g) of this section shall be applied for fiscal year 2021 and each successive fiscal year" are unclear.