

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S3/13/13*  
**A Bill**

SENATE BILL 500

5 By: Senator J. Woods  
6 By: Representative Neal  
7

**For An Act To Be Entitled**

9 AN ACT TO ASSIST THE ADMINISTRATION AND COLLECTION OF  
10 911 EMERGENCY PHONE SYSTEM CHARGES UNDER THE ARKANSAS  
11 PUBLIC SAFETY COMMUNICATIONS ACT OF 1985; TO REGULATE  
12 CONTRIBUTIONS FROM PREPAID WIRELESS PHONE USERS; AND  
13 FOR OTHER PURPOSES.  
14  
15

**Subtitle**

16 TO ASSIST THE ADMINISTRATION AND  
17 COLLECTION OF 911 EMERGENCY PHONE SYSTEM  
18 CHARGES; AND TO REGULATE CONTRIBUTIONS  
19 FROM PREPAID WIRELESS PHONE USERS.  
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21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 12-10-303(17), concerning the definition of  
26 "prepaid wireless telephone service" under the Arkansas Public Safety  
27 Communications Act of 1985, is amended to read as follows:

28 (17) "Prepaid wireless ~~telephone~~ telecommunications service"  
29 means a "prepaid wireless telephone calling service" as defined in § 26-52-  
30 314+

31 ~~(A) For which no monthly invoices are issued; and~~

32 ~~(B) Which is activated in advance by payment for a finite~~  
33 ~~dollar amount of service or for a finite set of minutes that terminate;~~

34 ~~(i) Upon use by the customer and delivery by a CMRS~~  
35 ~~provider or reseller of an agreed upon amount of service corresponding to the~~  
36 ~~total dollar amount paid in advance; or~~



1                   ~~(ii) Within a certain period of time following the~~  
2 ~~initial purchase or activation unless additional payments are made;~~

3  
4           SECTION 2. Arkansas Code § 12-10-303(26)(A), concerning the definition  
5 of "tariff rate" under the Arkansas Public Safety Communications Act of 1985,  
6 is amended to read as follows:

7                   (26)(A) "Tariff rate" means the rate or rates billed by a  
8 service supplier as stated in the service supplier's tariffs, ~~and approved by~~  
9 ~~the Arkansas Public Service Commission, which represents~~ price lists,  
10 customer contracts, or other methods of publishing service offerings that  
11 represent the service supplier's recurring charges for exchange access  
12 facilities, exclusive of all:

13                           (i) Taxes;

14                           (ii) Fees;

15                           (iii) Licenses; or

16                           (iv) Similar charges whatsoever.

17  
18           SECTION 3. Arkansas Code § 12-10-318(b)(1), concerning emergency  
19 telephone service charges, is amended to read as follows:

20                   (b)(1)(A)(i) There is levied a commercial mobile radio service  
21 emergency telephone service charge in an amount of sixty-five cents (65¢) per  
22 month per commercial mobile radio service connection that has a place of  
23 primary use within the State of Arkansas.

24                           (ii)(a) A commercial mobile radio service provider  
25 may determine, bill, collect, and retain an additional amount to reimburse  
26 the commercial mobile radio service provider for enabling and providing 911  
27 and enhanced 911 services and capability in the network and for the  
28 facilities and associated equipment.

29                           (b) The commercial mobile radio service  
30 provider may add any amounts implemented under this subdivision (b)(1)(A)(ii)  
31 to the sixty-five cents (65¢) levied in subdivision (b)(1)(A)(i) of this  
32 section so that the commercial mobile radio service emergency telephone  
33 service charges appear as a single line item on a subscriber's bill.

34                   ~~(B)(i) There is levied a service charge of sixty-five~~  
35 ~~cents (65¢) per month on prepaid wireless telephone service subscribers whose~~  
36 ~~mobile set telephone numbers are assigned to the State of Arkansas.~~

1                   ~~(ii) Providers of prepaid wireless telephone service~~  
2 ~~shall collect and remit the service charge under one (1) of the following~~  
3 ~~methods:~~

4                   ~~(a) The CMRS provider shall collect on a~~  
5 ~~monthly basis the sixty five cents (65¢) service charge from each prepaid~~  
6 ~~wireless telephone service customer whose account balance is equal to or~~  
7 ~~greater than the amount of the service charge; or~~

8                   ~~(b) The CMRS provider shall divide the total~~  
9 ~~earned prepaid wireless telephone service revenue received by the CMRS~~  
10 ~~provider with respect to each prepaid wireless telephone service customer in~~  
11 ~~the state within the monthly 911 reporting period by fifty dollars (\$50.00)~~  
12 ~~and multiply the quotient by the service charge amount.~~

13                   ~~(iii) In the case of prepaid wireless telephone~~  
14 ~~service:~~

15                   ~~(a) The monthly wireless 911 surcharge imposed~~  
16 ~~by this subdivision (b)(1)(B) shall be remitted based upon each prepaid~~  
17 ~~wireless telephone associated with this state for each wireless service~~  
18 ~~customer that has a sufficient positive balance as of the last day of each~~  
19 ~~month;~~

20                   ~~(b) The surcharge shall be remitted in any~~  
21 ~~manner consistent with the wireless provider's existing operating or~~  
22 ~~technological abilities, such as customer address, location associated with~~  
23 ~~the mobile telephone number, or reasonable allocation method based upon other~~  
24 ~~comparable relevant data; and~~

25                   ~~(c)(1) If direct billing is not feasible, the~~  
26 ~~prepaid subscriber's account may be reduced by the surcharge amount or an~~  
27 ~~equivalent number of minutes.~~

28                   ~~(2) However, collection of the wireless~~  
29 ~~911 surcharge under this subdivision (b)(1)(B)(iii)(c) does not reduce the~~  
30 ~~sales price for any tax collected at the point of sale.~~

31                   ~~(G)(B)~~ There is levied a voice over internet protocol  
32 emergency telephone service charge in an amount of sixty-five cents (65¢) per  
33 month per voice over internet protocol connection that has a place of primary  
34 use within the State of Arkansas.

35                   ~~(D)(C)~~ There is levied a nontraditional telephone service  
36 charge in an amount of sixty-five cents (65¢) per month per nontraditional

1 service connection that has a place of primary use within the State of  
2 Arkansas.

3 ~~(E)(D) Except for prepaid wireless telephone service, the~~  
4 The service charge levied in subdivision (b)(1)(A) of this section ~~and any~~  
5 ~~additional amounts implemented under subdivision (b)(1)(B) of this section~~  
6 and collected by commercial mobile radio service providers that provide  
7 mobile telecommunications services as defined by the Mobile  
8 Telecommunications Sourcing Act, Pub. L. No. 106-252, as in effect on January  
9 1, 2001, shall be collected pursuant to the Mobile Telecommunications  
10 Sourcing Act.

11

12 SECTION 4. Arkansas Code § 12-10-318(c)(2)(A) and (B), concerning the  
13 responsibilities of the Arkansas Emergency Telephone Services Board, is  
14 amended to read as follows:

15 (2) The responsibilities of the board shall be as follows:

16 (A) To establish and maintain an interest-bearing account  
17 into which ~~will~~ shall be deposited revenues from the service charges levied  
18 under subdivision (b)(1)(A) of this section and prepaid wireless E911 charges  
19 under § 12-10-326;

20 (B) To manage and disburse the funds from the interest-  
21 bearing account levied under subdivision (b)(1)(A) established under  
22 subdivision (c)(2)(A) of this section in the following manner:

23 (i)(a) Not less than eighty-three and five-tenths  
24 percent (83.5%) of the total monthly revenues collected and remitted under  
25 subdivision (b)(1)(A) of this section and prepaid wireless E911 charges under  
26 § 12-10-326 shall be distributed on a population basis to each political  
27 subdivision operating a 911 public safety communications center that has the  
28 capability of receiving commercial mobile radio service 911 calls on  
29 dedicated 911 trunk lines for expenses incurred for the answering, routing,  
30 and proper disposition of 911 calls, including payroll costs, readiness  
31 costs, and training costs associated with wireless, voice over internet  
32 protocol, and nontraditional 911 calls.

33 (b) Each state fiscal year, one hundred twenty  
34 thousand dollars (\$120,000) of the total monthly revenues collected and  
35 remitted under subdivision (c)(2)(B)(i)(a) of this section shall be  
36 transferred and deposited to the credit of the books of the Treasurer of

1 State and the Auditor of State for the Miscellaneous Agencies Fund Account  
2 for the Arkansas Commission on Law Enforcement Standards and Training, to be  
3 used exclusively for training and all related costs under § 12-10-325;

4 (ii)(a) Not more than fifteen percent (15%) of the  
5 total monthly revenues collected and remitted under subdivision (b)(1)(A) of  
6 this section and prepaid wireless E911 charges under § 12-10-326 shall be  
7 held in the interest-bearing account. The board shall report to Legislative  
8 Council in the event the sum held under this subdivision (c)(2)(B)(ii)(a)  
9 becomes less than three million five hundred thousand dollars (\$3,500,000).

10 (b) These funds may be utilized by the public  
11 safety answering points for the following purposes in connection with  
12 compliance with the Federal Communications Commission requirements:  
13 upgrading, purchasing, programming, installing, and maintaining necessary  
14 data, basic 911 GIS mapping, hardware, and software, including any network  
15 elements required to supply enhanced 911 phase II cellular, voice over  
16 internet protocol, and other nontraditional telephone service.

17 (c) Invoices must be presented to the board in  
18 connection with any request for reimbursement and be approved by a majority  
19 vote of the board to receive reimbursement.

20 (d) Any invoices presented to the board for  
21 reimbursements of costs not described by this section may be approved only by  
22 a unanimous vote of the board;

23 (iii) Not more than five-tenths percent (0.5%) of  
24 the fees collected under subdivision (b)(1)(A) of this section and prepaid  
25 wireless E911 charges under § 12-10-326 may be utilized by the board to  
26 compensate the independent auditor and for administrative expenses;

27 (iv) All interest received on funds in the interest-  
28 bearing account shall be disbursed as prescribed in subdivision (c)(2)(B)(i)  
29 of this section; and

30 (v)(a) All cities and counties receiving funds under  
31 this section shall submit to the board no later than April 1 of each year an  
32 explanation and accounting of the funds received and expenditures of those  
33 funds for the previous calendar year, along with a copy of the budget for the  
34 previous year and a copy of the year-end appropriation and expenditure  
35 analysis of any participating or supporting counties, cities, or agencies.

36 (b)(1) The board may require any other

1 information necessary to ensure that the funds have been properly utilized  
2 according to this section.

3 (2) All cities and counties receiving  
4 funds under this section also shall submit to the board no later than April 1  
5 of each year a copy of all documents reflecting the 911 funds received for  
6 the previous calendar year, including without limitation wireless, wireline,  
7 general revenues, sales taxes, and other sources used by the city or county  
8 for 911 services.

9 (c) Failure to submit the proper accounting  
10 information and failure to utilize the funds in a proper manner may result in  
11 the suspension or reduction of funding until corrected;

12

13 SECTION 5. Arkansas Code § 12-10-318(c)(2)(D), concerning the  
14 responsibilities of the Arkansas Emergency Telephone Services Board, is  
15 amended to read as follows:

16 (D) To submit annual reports to the office of the Auditor  
17 of State outlining fees collected and moneys disbursed to public safety  
18 answering points from service charges under subdivision (b)(1)(A) of this  
19 section and prepaid wireless E911 charges under § 12-10-326; and

20

21 SECTION 6. Arkansas Code Title 12, Chapter 10, Subchapter 3, is  
22 amended to add an additional section to read as follows:

23 12-10-326. Prepaid wireless E911 service charges.

24 (a) As used in this section:

25 (1) "Consumer" means a person who purchases prepaid wireless  
26 telecommunications service in a retail transaction;

27 (2) "Occurring in this state" means a retail transaction that  
28 is:

29 (A) Conducted in person by a consumer at a business  
30 location of a seller in this state; or

31 (B) Treated as occurring in this state for purposes of the  
32 gross receipts tax provided under § 26-52-521(b);

33 (3) "Prepaid wireless E911 charge" means the charge for prepaid  
34 wireless telecommunications service that is required to be collected by a  
35 seller from a consumer under subsection (b) of this section;

36 (4) "Provider" means a person that provides prepaid wireless

1 telecommunications service under a license issued by the Federal  
2 Communications Commission;

3 (5)(A) "Retail transaction" means each purchase of prepaid  
4 wireless telecommunications service from a seller for any purpose other than  
5 resale.

6 (B)(i) "Retail transaction" includes a separate purchase  
7 of prepaid wireless telecommunications service that is paid contemporaneously  
8 with another purchase of prepaid wireless telecommunications service if  
9 separately stated on an invoice, receipt, or similar document provided by the  
10 seller to the consumer at the time of sale.

11 (ii) A "retail transaction" includes a recharge as  
12 defined in § 26-52-314 of prepaid wireless telecommunications service;

13 (6) "Seller" means a person who sells prepaid wireless  
14 telecommunications service to another person; and

15 (7) "Wireless telecommunications service" means a commercial  
16 mobile radio service as defined under § 12-10-303.

17 (b)(1) For each retail transaction occurring in this state, the seller  
18 shall collect from the consumer a prepaid wireless E911 charge of sixty-five  
19 cents (65¢).

20 (2)(A) The amount of the prepaid wireless E911 charge shall be  
21 either separately stated on an invoice, receipt, or similar document that is  
22 provided to the consumer at the time of sale by the seller or otherwise  
23 disclosed to the consumer.

24 (B) If the amount of the prepaid wireless E911 charge is  
25 separately stated on an invoice, receipt, or similar document provided to the  
26 consumer at the time of sale by the seller, the amount of the prepaid  
27 wireless E911 charge shall not be included in the base for measuring any tax,  
28 fee, surcharge, or other charge that is imposed by the state, a political  
29 subdivision of the state, or an intergovernmental agency.

30 (c) If prepaid wireless telecommunications service of ten (10) minutes  
31 or less or five dollars (\$5.00) or less is sold with a prepaid wireless  
32 device for a single, nonitemized price, then the seller is not required to  
33 collect the fee specified in subdivision (b)(1) of this section.

34 (d)(1) Except as provided in subdivision (d)(2) of this section, a  
35 seller shall remit prepaid wireless E911 charges according to the payment  
36 schedule that applies to a seller under § 26-52-201.

1 (2) A seller that meets the prompt payment requirements of § 26-  
2 52-503 may deduct and retain three percent (3%) of prepaid wireless E911  
3 charges.

4 (e) The Arkansas Tax Procedure Act, § 26-18-101 et seq., applies to a  
5 prepaid wireless E911 charge.

6 (f) The department shall pay all remitted prepaid wireless E911  
7 charges within thirty (30) days of receipt to the Arkansas Emergency  
8 Telephone Services Board for use by the board under subdivision § 12-10-  
9 318(c).

10 (g) A provider or seller is not liable for damages to a person  
11 resulting from or incurred in connection with:

12 (1) Providing or failing to provide 911 or E911 service;

13 (2) Identifying or failing to identify the telephone number,  
14 address, location, or name associated with a person or device that is  
15 accessing or attempting to access 911 or E911 service; or

16 (3) Providing lawful assistance to a federal, state, or local  
17 investigator or law enforcement officer conducting a lawful investigation or  
18 other law enforcement activity.

19 (h) A provider or seller is not liable for civil damages or criminal  
20 liability in connection with:

21 (1) The development, design, installation, operation,  
22 maintenance, performance, or provision of 911 service; or

23 (2) The release of subscriber information to a governmental  
24 entity as required by the Arkansas Public Safety Communications Act of 1985,  
25 § 12-10-301 et seq.

26 (i)(1) The prepaid wireless E911 charge imposed by this section shall  
27 be the only E911 funding obligation imposed for prepaid wireless  
28 telecommunications service in this state.

29 (2) A tax, fee, surcharge, or other charge shall not be imposed  
30 by the state, a political subdivision of the state, or an intergovernmental  
31 agency for E911 funding purposes upon a provider, seller, or consumer for the  
32 sale, purchase, use, or provision of prepaid wireless telecommunications  
33 service.

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35 SECTION 7. EFFECTIVE DATE. This act is effective on and after January  
36 1, 2014.



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*/s/J. Woods*