

Department of Finance and Administration

Legislative Impact Statement

Bill: SB500

Bill Subtitle: TO ASSIST THE ADMINISTRATION AND COLLECTION OF 911 EMERGENCY PHONE SYSTEM CHARGES; AND TO REGULATE CONTRIBUTIONS FROM PREPAID WIRELESS PHONE USERS.

Basic Change :

Senator J. Woods

Representative Neal

The proposal would amend Arkansas Code provisions to require the Department of Finance and Administration (DFA) to collect the existing E911 service charges levied on sales of prepaid wireless mobile radio (cell phone) telecommunications services. The service charges are levied by authority of the Arkansas Public Safety Communications Act of 1985 and are currently collected by the Arkansas Emergency Telephone Service Board. The Arkansas Emergency Telephone Service Board would continue to collect the 911 fees from sellers of monthly billed cell phone services and sellers of voice over internet protocol telephone services.

The fee is levied on prepaid wireless telephone service sold by a retailer and is currently imposed at the rate of sixty-five cents (\$0.65) per retail transaction. The fee is collected by the retailer on each recharge of the prepaid cell phone. The bill requires retailers to collect the fee on prepaid wireless services at point of sale and remit the fee collections to DFA. The receipts are to be remitted by DFA to the Arkansas Emergency Telephone Services Board.

The proposal provides an effective date of January 1, 2014.

Revenue Impact :

E911 fees are currently collected by the Arkansas Emergency Telephone Service Board. Transferring the collection of the fee to DFA should not impact the amount of the fees collected.

Taxpayer Impact :

Sellers of prepaid wireless cell phone services would change the method and procedures for reporting and making remittance of the fees collected from their customers.

Resources Required :

Collection of the fee will require redesign of existing DFA tax registration forms, monthly tax reporting forms and instructions sets. Modifications to DFA's tax reporting system will be required to establish this fee type within the tax system with the related interfaces to the state accounting system. Modifications will also be required within the Revenue Division's cash control computer systems, processes and accounting functions.

Time Required :

Adequate time is provided in the proposal to make necessary computer system changes and modifications to tax forms.

Procedural Changes :

Development and promulgation of Rules will be required to implement the procedures for reporting and remittance of the fee. Education of taxpayer assistance telephone support staff personnel and field tax audit personnel will be required.

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Other Comments :

DFA will be required to post on its website information regarding any rate change. It is anticipated that the reporting and remittance of this fee will be part of the monthly Excise Tax Report. Taxpayers submit their reports monthly, quarterly or annually dependent on their tax remittance amounts with smaller taxpayers reporting less frequently. The proposal should provide that the fees would be reported in accordance with their scheduled sales tax reporting frequency. Additionally, taxpayers reporting on a monthly basis are mailed forms on a semi-annual basis with packages mailed for the tax periods of January through June and for July through December. In order for the proper tax rate to be reflected on the reporting forms, any rate change adjustments for the fees should have effective dates limited to either January 1 or July 1.

The proposal should reflect a definitive due date for the fee with the date to match the requirements of the sales tax code. The proposal should be amended to provide specific discount language similar to that codified as § 26-52-503(a) and reflect provision for forfeiting the discount allowance.

The bill should be amended to reflect that the fee will be administered in accordance with State Tax Procedures, Ark. Code Ann. 26-18-101 et seq. Audit and appeal procedures are provided in State Tax Procedures, not the Gross Receipts tax code. This would also provide confidentiality protections and procedures for assessment, refund, lien filing, penalty and interest calculations. State Tax Procedures should be amended to clearly reflect that this fee is included for administration as other fee types that are currently referenced. State Tax Procedures defines "state tax" to include "any fee for a license, permit, or registration which is payable to, collected by, or administered by the Department of Finance and Administration". In order to avoid any confusion regarding applicable administrative procedures, the Arkansas Tax Procedure Act should be amended to address the E911 fee type.

DFA deposits all tax receipts with the State Treasurer for subsequent distribution to funds in accordance with state law. The bill should reflect distribution by the State Treasurer. The 3% portion of the fee to be retained by DFA should be amended to reflect that fee should be retained by the State Treasurer for deposit to State Central Services and Constitutional Officers funds in the same manner as other tax collections.

Legal Analysis :

SB500 eliminates the 911 surcharge on prepaid wireless telephone service subscribers under Ark. Code Ann. §12-10-318(b)(1)(B), adds a new section to the code, Ark. Code Ann. §12-10-326, to levy a new prepaid wireless E911 service charge upon purchasers of prepaid wireless telecommunication services, and amends the responsibilities of the Arkansas Emergency Telephone Services Board (AETSB) under Ark. Code Ann. §12-10-318(c)(2) to authorize the deposit, management, and distribution of the E911 service charge.

The effective date of the bill is January 1, 2014.

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