

Department of Finance and Administration

Legislative Impact Statement

Bill: SB500

Amendment Number: S2

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

Senate Amendment 2 --- Makes additional changes for technical and administrative purposes.

Engrossment 03/13/13 --- Senate Amendment 1 --- Amends the bill to make technical changes.

Original Bill ---The proposal would amend Arkansas Code provisions to require 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 :

Unknown change in amount of existing 911 fees collected

911 service charges on prepaid wireless telephone services are currently collected by the Arkansas Emergency Telephone Service Board and reported by the providers of the mobile telecommunications services. FCC data reflected that approximately 490,000 Arkansas citizens used prepaid wireless devices in 2010. The fees are levied at the rate of sixty-five cents (65¢) per month per service connection and are collected from the subscriber as a reduction in their account balance. An alternative calculation method is provided in law and available for use by the service providers when reporting the fees.

The proposal changes the collection of the fees to a point of sale method and retailers instead of the service providers would collect and report the fees. The fee would be collected on each purchase of the prepaid wireless services versus the current monthly fee. The change in the amount of fees collected would be dependent on the number of recharges sold, the frequency of the sales, and the compliance of reporting from Arkansas retailers who do not currently sell telecommunications services and do not collect similar fees or charges on their retail sales. Current fee collections may also be impacted if Arkansas consumers purchase recharges of prepaid wireless communications from retailers located outside of Arkansas that do not have nexus with the state and are not required to collect Arkansas taxes and fees.

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Taxpayer Impact :

Sellers of prepaid wireless cell phone services would change the accounting, cash register and tax reporting 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.

Legal Analysis :

Amendment S2 to SB500 provides that sellers shall report and pay 100% of prepaid wireless E911 charges, plus penalty and interest, in the same manner and at the same time as the gross receipts tax. However, a seller meeting the prompt payment requirements of Ark. Code Ann. §26-52-503 may deduct and retain 3% of the prepaid wireless E911 charge. Amendment S2 also amends the definition of state tax under Ark. Code Ann. §26-18-104(13) to include any fee or charge which is payable to, collected by, or administered by DFA.

Amendment S2 also clarifies that no other state or local tax, fee, surcharge or other charge may be imposed for the purpose of implementing and supporting emergency telephone services. This change was made in relation to concerns raised by DFA that the original bill is somewhat unclear in relation to what the industry was trying to accomplish.