

Date of Hearing: April 11, 2011

ASSEMBLY COMMITTEE ON UTILITIES AND COMMERCE

Steven Bradford, Chair

AB 1050 (Ma) – As Amended: March 31, 2011

SUBJECT: Telecommunications.

SUMMARY: Requires the Board of Equalization (BOE) to convene a working group to develop recommendations for an equitable and uniform method of collecting state and locally authorized communications taxes, fees, and surcharges from prepaid communications end-use customers. Specifically, this bill:

- 1) Requires BOE to convene a working group to develop recommendations for an equitable and uniform method of collecting state and locally authorized communications taxes, fees, and surcharges from prepaid communications end-use customers.
- 2) Requires the working group to include stakeholder representatives from the California Public Utilities Commission (PUC), the California Technology Agency (CTA), local government entities, law enforcement agencies, mobile telephony service providers, retailers, and consumer groups.
- 3) Declares that maintaining effective and efficient telecommunications services, 911 emergency systems, telecommunications-related public policy programs to promote universal service, and various local programs across the state benefits all citizens.
- 4) Finds that consumers purchase prepaid communications services at a wide variety of retail locations and other distribution channels, as well as through service providers.
- 5) Declares prepaid communications services are an important and growing segment of the communications industry.
- 6) States that to ensure equitable contributions from end-use consumers of postpaid and prepaid communications services, there should be standardization with respect to the method used to collect communications taxes, fees, and surcharges from end-use consumers of prepaid communications services.

EXISTING LAW:

- 1) States the PUC has regulatory authority over public utilities, including telephone corporations, and is authorized to fix just and reasonable rates and charges for services provided by those public utilities.
- 2) Requires several public purpose surcharges and user fees to be collected from end-users and remitted to the PUC.
- 3) Establishes the Warren-911-Emergency Assistance Act and the Emergency Telephone Users Surcharge Act to create and pay for the 911 emergency response system.

- 4) Imposes a surcharge on all intrastate telephone calls, including calls made using voice over internet protocol (VoIP) technologies and wireless technologies, to fund 911 services.
- 5) Requires the Department of General Services to determine annually a surcharge rate that it estimates will produce sufficient revenue to fund the fiscal year's 911 costs, not to exceed 0.75% on intrastate telephone calls.

FISCAL EFFECT: Unknown.

COMMENTS: According to the author, this bill is intended to create a fair, uniform mechanism to ensure collection of state and local communications taxes and fees from consumers of prepaid wireless communication services.

1) Postpaid vs. prepaid telephone service: Postpaid service is a plan in which phone service is provided under a long-term contract and paid for on a monthly basis. At the end of each month, the carrier calculates charges for all of the services the customer has used and sends the user a bill. Prepaid service refers to phone service plans where an individual pays for the service in advance. Prepaid plans typically require a customer to buy a predetermined amount of calling minutes.

Postpaid plans provide customers with the advantage of unlimited phone usage credit, allowing subscribers to make calls without restrictions. Prepaid plans allow customers to use a carrier's services only if there is enough credit to pay for the service. Once the credit has been depleted, no additional calls can be made.

Prepaid services are generally offered via two products: prepaid calling cards and prepaid wireless telephones. Both of these products are sold at a variety of retail outlets including stores, markets, post offices, pharmacies, gas stations, and vending machines, as well as through the mail and internet. An individual who purchases a calling card must use a phone that is already connected to a local provider to call a toll-free or carrier-specific number and then activate a Personal Identification Number (PIN) printed on the back of the card. As calls are made, the usable minutes are automatically deducted from the card balance. Some prepaid calling cards are discarded once the minutes have been exhausted, while others can be recharged. An individual who purchases a prepaid wireless phone (also known as a pay-as-you-go) buys credit to use that phone on a mobile phone network until they run out of credit. Like some prepaid calling cards, these phones can be recharged after the minutes have been exhausted.

2) Surcharges: Current law imposes the state 911 surcharge, as well as a variety of public purpose surcharges for low-income, and rural assistance programs, and programs for the disabled. The surcharges are calculated based on the amount paid for all phone calls that originate and end within the state. These intrastate calls are the only calls over which any state has the authority to impose a surcharge. Current law also specifies that the surcharge is to be imposed at the time of billing. Specifically, these taxes and fees include:

- a) Surcharges authorized pursuant to the Emergency Telephone Users Surcharge Act
- b) Public Utilities Commission surcharges including
 - i. California High Cost Fund – A program
 - ii. California High Cost Fund – B program
 - iii. Deaf and Disabled Telecommunications Program

- iv. California Teleconnect Fund
- v. The California Advanced Services Fund
- vi. Lifeline Program
- vii. Public Utilities Commission reimbursement fees
- c) Local 911 or access line taxes, fees, or surcharges
- d) Local utility user taxes

3) Level the playing field: Since most prepaid customers do not have a direct relationship with a carrier, and do not enter into a contract with a monthly bill, there is no statewide mechanism to collect the same communications taxes and fees from prepaid wireless customers that are presently collected from postpaid services. As a result, the state and local governments have no reliable means for ensuring collection of these revenues. In other words, these entities lose revenues for important services and programs. This bill seeks to alleviate the hurdles of assessing surcharges on prepaid wireless communication services by developing a uniform statewide collection mechanism.

4) Growing pains in California: According to CTIA – The Wireless Association, the prepaid wireless market is anticipated to grow at a rate of 10 percent per year. Out of 300 million nationwide wireless consumers, it is estimated that 20 percent use prepaid services. California's share of the national wireless market is 20 percent.

The growth in the use of prepaid services over postpaid services has sparked a national discussion on how to ensure essential services like 911 will continue to be funded. Because of the lack of billing relationship between the prepaid wireless user and the sellers of the prepaid wireless service, the prepaid wireless industry approached the states with model legislation to create a uniform collection methodology that would collect prepaid wireless Enhanced 911 (E911) fees on end users at the retail point of sale. In response, on July 20, 2009, The National Conference of State Legislatures (NCSL) adopted a resolution entitled "The Collection of E911 Fees on Wireless Prepaid Service at the Point-of-Sale Act." The adoption of a uniform methodology for collecting the 911 surcharges would provide the funding for 911 systems while minimizing administrative costs for states and providers of prepaid wireless service.

However, California is rather unique in comparison to other states, as it not only has the 911 surcharge to collect, but also a number of other state and local government surcharges, which make the collections methodology used by other states more challenging for it to adopt. This bill would require the BOE to convene a working group that would include key stakeholder representatives to develop recommendations for an equitable and uniform method of collecting state and locally authorized fees from prepaid end-use consumers.

5) Accountability: To ensure that the BOE complies with the provisions in this bill in a timely manner, the author and this committee may wish to amend the bill to require BOE to convene the first meeting of the working group no later than March 1, 2012 and report back to the Legislature with its findings and recommendations no later than April 30, 2013.

REGISTERED SUPPORT / OPPOSITION:

Support

AT&T

CTIA – The Wireless Association (sponsor)

Opposition

None on file.

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