

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 7, 2009

**TO:** Honorable Rene Oliveira, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3359** by McClendon (Relating to a uniform and statewide 9-1-1 emergency services fee on the retail sale of prepaid wireless telecommunications services to consumers.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3359, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from 911 Service Fees 5050	Probable Revenue Gain/(Loss) from Emergency Service Fee on Wireless Telecommunications Trust Fund 0875
2010	\$6,782,000	(\$6,782,000)
2011	\$12,212,000	(\$12,212,000)
2012	\$12,664,000	(\$12,664,000)
2013	\$12,964,000	(\$12,964,000)
2014	\$13,100,000	(\$13,100,000)

Fiscal Analysis

The bill would amend the Health and Safety Code by creating a prepaid wireless 9-1-1 emergency services fee of 2 percent on each retail transaction of prepaid wireless telecommunication service and dedicate and direct the use of the new fee revenue.

Under the provisions of the bill, the fee would be assessed and collected by sellers of the prepaid services and remitted monthly to the Comptroller for deposit into GR Account 5050—911 Service Fees. Sellers would be entitled to retain a 1 percent administrative fee. The bill would stipulate that this new fee is a liability of the consumer but that retailers would be liable to remit all fees collected. The bill would give providers and sellers of prepaid wireless service certain and specific indemnity from damages. Prepaid wireless providers would also have the same liability exemptions afforded

wireless service providers.

The bill would prohibit the state from imposing any other fee, surcharge, or tax on prepaid wireless telecommunication service for 9-1-1 funding purposes. The new fee would be administered in the same manner as Chapter 151 of the Tax Code (sales tax). The bill would direct the Commission on State Emergency Communications (CSEC) to set an annual percentage for transfers of the fee, not to exceed 10 percent of the fee revenue, to GR Account 5007— Commission on State Emergency Communications and distributions of the new fee.

The bill would impose additional reporting duties on the Sunset Advisory Commission with respect to the review of CSEC.

This bill would take effect January 1, 2010.

## **Methodology**

In this analysis, the Comptroller of Public Accounts based estimates on historical data for wireless fees, a distribution model of prepaid plans based on expiration dates, and the 2010-2011 Biennial Revenue Estimate.

The proportion of emergency service fees attributable to prepaid customers was determined by wireless industry trade surveys and additional information provided by the CSEC. Mobile service providers remit service fee revenue to the state one month after the fee is collected from wireless customers. Estimates were adjusted for implementation lags. Some of the wireless fee revenue is transferred from the trust fund and deposited to GR Account 5050 to meet state obligations. The fiscal effect for GR Account 5007 cannot be estimated without action on the part of CSEC.

The overall fiscal impact reflects the net effect of the imposition of new 2 percent fee and the exemption from the old fee.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD