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FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/15
SPONSOR Gonzales **LAST UPDATED** 2/9/15 **HB** 126

SHORT TITLE E911 Surcharges **SB** _____

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	\$2,833.0	\$2,833.0	Recurring	E911 Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	E911 Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Attorney General's Office (AGO)

Department of Public Safety (DPS)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 126 amends the Enhanced 911 Act to apply to all real-time forms of communication, not simply calls. It expands the current surcharge from access lines and active numbers for commercial mobile radio service to also include lines on VoIP (interconnected voice-over-internet protocol service) and any other communications service subscriber that enables subscriber access to a public safety answering point (PSAP) in New Mexico. It excludes broadband services from this surcharge and creates a smaller surcharge for prepaid wireless lines equal to 1.38 percent of the gross value of the retail transaction at the point of sale. The prepaid wireless transaction is treated as a sale in New Mexico if the sale is subject to state gross receipts

tax. If 10 minutes or \$5.00 or less of service is sold, the seller may waive the application of the surcharge to those services sold. The bill limits the liability of prepaid wireless carriers for the provisioning of E911 service.

The bill expands the definitions in the act to encompass Next Generation E911 (“NG911”) and ESI Net capabilities and defines “communication service” as any service that uses a technology that is capable of providing communication to and from the Enhanced 911 network. The bill repeals the provision which requires state and local 911 operations to be able to receive email.

The bill authorizes a county, in addition to a municipality, to adopt an ordinance making it a violation for any person to knowingly dial 911 for the purpose of reporting a false alarm, making a false complaint, or reporting false information that results in an emergency response by any public safety agency.

FISCAL IMPLICATIONS

The bill would generate an estimated \$2.8 million in additional revenues for the E911 fund annually by expanding the services subject to the existing surcharge and creating a new, smaller surcharge for prepaid wireless sales. The Department of Finance and Administration (DFA) estimates \$1.9 million would come from prepaid wireless surcharges and \$899.6 thousand would come from VoIP surcharges. However, PRC notes there might be additional operating budget impacts associated with tracking, collecting, and auditing the new surcharges.

The Public Regulation Commission (PRC) reports the E911 surcharge is currently levied only on landline telephone access lines and for each post-paid commercial mobile radio service (CMRS) subscriber number. The number of landline access lines and associated E911 revenues from those access lines is declining. The number of post-paid CMRS subscribers in New Mexico may be declining as well. Expanding the application of the surcharge to active telephone numbers for VoIP and other communications service subscribers accessing the E911 network, along with creating a new surcharge for prepaid wireless services, should increase the revenues to the E911 fund. In order to estimate the amount of revenues that may be generated due to these changes, one would have to estimate how many active telephone numbers associated with VoIP and communications services would be subject to the E911 surcharge under this bill. Prepaid wireless revenues should be accountable through revenues generated at the time of purchase.

Additional resources may be needed to track and collect the E911 surcharge to the new class of eligible communications providers and prepaid wireless sellers. PRC suggests these expenses would likely come from the E911 fund and the additional funding may increase the resources available to DFA to help administer the program.

SIGNIFICANT ISSUES

The bill was endorsed by the E-911 Directors Affiliate of the New Mexico Association of Counties, the Commissioner's Affiliate, Manager's Affiliate, Fire and Emergency Manager's Affiliate, GIS Rural Addressing Affiliate, and the Sheriff's Affiliate.

PRC voted 4 – 1 in favor of the bill, and the agency included the following analysis.

This bill expands the application of the E911 surcharge to other subscribers currently using the E911 network but not paying to support the upkeep or upgrading of that

network. Thus, the bill provides for a more equitable sharing of the costs of the users of that network. Also, telecommunications or communications services are migrating from the traditional public switched telephone network (PSTN) that the current E911 network is based on, to wireless and internet protocol (IP)-based networks. Next generation 911 networks, including PSAPs, will need to be constructed that are capable of handling IP, text, and video based emergency transmissions. Adequate funds will need to be collected in order to upgrade the current E911 network.

The current definition of “telecommunications company” includes only wire telecommunications services capable of originating a 911 call. CMRS providers are currently considered by the U.S. Federal Communications Commission (FCC) to be common carriers. However, the FCC may be poised to change the definition of what a telecommunications service is under the current net neutrality debate. As written, modification of this definition may have no effect on the imposition or collection of the E911 surcharge in the modified bill.

Prepaid wireless subscribers are included in this bill, who also access the E911 network for emergency purposes. Other states have passed legislation that has applied to prepaid wireless subscribers on a point-of-sale basis. Mandating collection of E911 surcharges from these subscribers more evenly distributes the costs imposed on the E911 network. See for example, the Nebraska Department of Revenue site:
<http://www.revenue.nebraska.gov/wireless/wireless.html>.

A greater percentage of wireless subscribers are moving to prepaid wireless plans, and there has been a large expansion of the number of Lifeline wireless subscribers who service is “prepaid” by the federal government. Some arguments against these types of E911 charges are that the surcharge is not applied on an equal basis as other E911 network users, in that they are often charged a greater percentage relative to the dollar amount of services used than other E911 subscribers. The alternative prepaid surcharge in this bill is designed to help alleviate that disparity.

ADMINISTRATIVE IMPLICATIONS

As noted above, additional resources might be needed to track and collect the new surcharges. Additionally, PRC reports there may nor may not be issues with identifying the new communications providers or figuring out how many numbers monthly are to be assessed the E911 surcharge for those associated provider subscribers. This information may be available from Neustar, who is the administrator for the North American Numbering Plan Administration (NANPA) or the Universal Service Administrative Company (USAC), who works on behalf of FCC and collects IP-based carrier data.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As noted by PRC, only landline access line and post-paid CMRS subscribers will continue to pay the E911 surcharge. If the number of post-paid CMRS subscribers stays flat or declines, and the number of landline access lines continues to decline, then the E911 fund revenues may decline accordingly, jeopardizing the integrity of the existing E911 network or preventing necessary upgrades to a NG911 network.