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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2014	.	
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	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 589 - 780
and insert:
identifier. Effective January 1, 2015, the fee shall be 40 cents per month for each service identifier. The fee shall apply uniformly and be imposed throughout the state, except for those counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per access line. In those counties the fee established by ordinance



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11 may be changed only to the uniform statewide rate no sooner than
12 30 days after notification is made by the county's board of
13 county commissioners to the board.

14 ~~(g) It is the intent of the Legislature that all revenue~~
15 ~~from the fee be used as specified in s. 365.173(2)(a)-(i).~~

16 (g)(h) No later than November 1, 2007, The board may adjust
17 the allocation percentages for distribution of the fund as
18 provided in s. 365.173. No sooner than June 1, 2015, the board
19 may adjust the rate of the fee under paragraph (f) based on the
20 criteria in this paragraph and paragraph (h). Any adjustment in
21 the rate must be approved by a two-thirds vote of the total
22 number of E911 board members. When setting the percentages or
23 ~~and~~ contemplating any adjustments to the fee, the board shall
24 consider the following:

25 1. The revenues currently allocated for wireless service
26 provider costs for implementing E911 service and projected costs
27 for implementing E911 service, including recurring costs for
28 Phase I and Phase II and the effect of new technologies;

29 2. The appropriate level of funding needed to fund the
30 rural grant program provided for in s. 365.173(2)(g); and

31 3. The need to fund statewide, regional, and county grants
32 in accordance with sub-subparagraph (6)(a)3.b. and s.
33 365.173(2)(h).

34 (h)(i) The board may adjust the allocation percentages or
35 adjust the amount of the fee as provided in paragraph (g), or
36 ~~both,~~ if necessary to ensure full cost recovery or prevent
37 overrecovery of costs incurred in the provision of E911 service,
38 including costs incurred or projected to be incurred to comply
39 with the order. Any new allocation percentages or reduced or



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40 increased fee may not be adjusted for 1 year. In no event shall
41 the fee ~~may not~~ exceed 50 cents per month for per each service
42 identifier. The ~~board-established~~ fee, and any board adjustment
43 of the fee, shall be uniform throughout the state, except for
44 the counties identified in paragraph (f). No less than 90 days
45 before the effective date of any adjustment to the fee, the
46 board shall provide written notice of the adjusted fee amount
47 and effective date to each voice communications services
48 provider from which the board is then receiving the fee.

49 (i) It is the intent of the Legislature that all revenue
50 from the fee be used as specified in s. 365.173(2)(a)-(i).

51 (j) State and local taxes do not apply to the fee. The
52 amount of the E911 fee collected by a provider may not be
53 included in the base for imposition of any tax, fee, surcharge,
54 or other charge imposed by this state, any political subdivision
55 of this state, or any intergovernmental agency.

56 (k) A local government may not levy the fee or any
57 additional fee on providers or subscribers for the provision of
58 E911 service.

59 (l) For purposes of this section, the definitions contained
60 in s. 202.11 and the provisions of s. 202.155 apply in the same
61 manner and to the same extent as the definitions and provisions
62 apply to the taxes levied under chapter 202 on mobile
63 communications services.

64 (9) PREPAID WIRELESS E911 FEE.-

65 (a) Effective January 1, 2015, a prepaid wireless E911 fee
66 is imposed per retail transaction at the rate established in
67 paragraph (8)(f). In order to allow sellers of all sizes and
68 technological capabilities adequate time to comply with this



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69 subsection, a seller of prepaid wireless service operating in
70 this state before the prepaid wireless E911 fee is imposed shall
71 retain 100 percent of the fee collected under this paragraph for
72 the first 2 months to offset the cost of setup.

73 (b) Effective March 1, 2015, the prepaid wireless E911 fee
74 imposed under paragraph (a) shall be subject to remittance in
75 accordance with paragraph (g). In no event shall the fee exceed
76 50 cents for each retail transaction. At least 90 days before
77 the effective date of any adjustment to the fee under paragraph
78 (8)(g), the Department of Revenue shall provide written notice
79 of the adjusted fee amount and its effective date to each seller
80 from which the department is then receiving the fee. At least
81 120 days before the effective date of any adjustment to the fee
82 imposed under this subsection, the board shall provide notice to
83 the Department of Revenue of the adjusted fee amount and
84 effective date of the adjustment.

85 (c) The prepaid wireless E911 fee shall be collected by the
86 seller from the consumer with respect to each retail transaction
87 occurring in this state. The amount of the prepaid wireless E911
88 fee shall be separately stated on an invoice, receipt, or other
89 similar document that is provided to the consumer by the seller
90 or otherwise disclosed to the consumer.

91 (d) For purposes of paragraph (c), a retail transaction
92 that takes place in person by a consumer at a business location
93 of the seller shall be treated as occurring in this state if
94 that business location is in this state. Such transaction is
95 deemed to have occurred in the county of the business location.
96 When a retail transaction does not take place at the seller's
97 business location, the transaction shall be treated as taking



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98 place at the consumer's shipping address or, if no item is
99 shipped, at the consumer's address or the location associated
100 with the consumer's mobile telephone number. Such transaction is
101 deemed to have occurred in the county of the consumer's shipping
102 address when items are shipped to the consumer or, when no items
103 are shipped, the county of the consumer's address or the
104 location associated with the consumer's mobile telephone number.
105 A transaction for which the specific Florida county cannot be
106 determined shall be treated as nonspecific.

107 (e) If a prepaid wireless device is sold for a single,
108 nonitemized price with a prepaid wireless service of 10 minutes
109 or less or \$5 or less, the seller may elect not to apply the
110 prepaid wireless E911 fee to the transaction.

111 (f) The amount of the prepaid wireless E911 fee that is
112 collected by a seller from a consumer and that is separately
113 stated on an invoice, receipt, or similar document provided to
114 the consumer by the seller, may not be included in the base for
115 imposition of any tax, fee, surcharge, or other charge that is
116 imposed by this state, any political subdivision of this state,
117 or any intergovernmental agency.

118 (g) Beginning April 1, 2015, each seller shall file a
119 return and remit the prepaid wireless E911 fees collected in the
120 previous month to the Department of Revenue on or before the
121 20th day of the month. If the 20th day falls on a Saturday,
122 Sunday, or legal holiday, payments accompanied by returns are
123 due on the next succeeding day that is not a Saturday, Sunday,
124 or legal holiday observed by federal or state agencies as
125 defined in chapter 683 and s. 7503 of the Internal Revenue Code
126 of 1986, as amended. A seller may remit the prepaid wireless



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127 E911 fee by electronic funds transfer and file a fee return with
128 the Department of Revenue that is initiated through an
129 electronic data interchange.

130 1. When a seller is authorized by the Department of Revenue
131 pursuant to s. 212.11(1)(c) or (d) to file a sales and use tax
132 return on a quarterly, semiannual, or annual reporting basis,
133 the seller may file a return and remit the prepaid wireless E911
134 fees on or before the 20th day of the month following the
135 authorized reporting period for sales and use tax.

136 2. A seller collecting less than \$50 per month of prepaid
137 wireless E911 fees may file a quarterly return for the calendar
138 quarters ending in March, June, September, and December. The
139 seller must file a return and remit the prepaid wireless E911
140 fees collected during each calendar quarter on or before the
141 20th day of the month following that calendar quarter.

142 3. A seller must provide the following information on each
143 prepaid wireless E911 fee return filed with the Department of
144 Revenue:

145 a. The seller's name, federal identification number,
146 taxpayer identification number issued by the Department of
147 Revenue, business location address and mailing address, and
148 county of the business location in accordance with paragraph
149 (d);

150 b. The reporting period;

151 c. The number of prepaid wireless services sold during the
152 reporting period;

153 d. The amount of prepaid wireless E911 fees collected and
154 the amount of any adjustments to the fees collected;

155 e. The amount of any retailer collection allowance deducted



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156 from the amount of prepaid wireless E911 fees collected; and
157 f. The amount to be remitted to the Department of Revenue.
158 4. A seller who operates two or more business locations for
159 which returns are required to be filed with the Department of
160 Revenue may file a consolidated return reporting and remitting
161 the prepaid wireless E911 fee for all business locations. Such
162 sellers must report the prepaid wireless E911 fees collected in
163 each county, in accordance with paragraph (d), on a reporting
164 schedule filed with the fee return.
165 5. A return is not required for a reporting period when no
166 prepaid wireless E911 fee is to be remitted for that period.
167 6. The Department of Revenue shall administer, collect, and
168 enforce the fee under this subsection pursuant to the same
169 procedures used in the administration, collection, and
170 enforcement of the general state sales tax imposed under chapter
171 212, except as provided in this section. The provisions of
172 chapter 212, regarding authority to audit and make assessments,
173 keeping of books and records, and interest and penalties on
174 delinquent fees shall apply. The provision of estimated tax
175 liability in s. 212.11(1)(a) shall not apply to the prepaid
176 wireless E911 fee.
177 (h) A seller of prepaid wireless services in this state
178 must register with the Department of Revenue for each place of
179 business as required by s. 212.18(3) and the Department of
180 Revenue's administrative rule regarding registration as a sales
181 and use tax dealer. A separate application is required for each
182 place of business. A valid certificate of registration issued by
183 the Department of Revenue to a seller for sales and use tax
184 purposes is sufficient for purposes of the registration



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185 requirement of this subsection. There is no fee for registration
186 for remittance of the prepaid wireless E911 fee.

187 (i) The Department of Revenue shall deposit the funds
188 remitted under this subsection into the Audit and Warrant
189 Clearing Trust Fund established in s. 215.199 and retain up to
190 3.2 percent of the funds remitted under this subsection to
191 reimburse its direct costs of administering the collection and
192 remittance of prepaid wireless E911 fees. Thereafter, the
193 Department of Revenue shall transfer all remaining funds
194 remitted under this subsection to the Emergency Communications
195 Number E911 System Fund monthly for use as provided in s.
196 365.173.

197 (j) Beginning March 1, 2015, a seller may retain 5 percent
198 of the prepaid wireless E911 fees that are collected by the
199 seller

200
201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete line 18

204 and insert:

205 included in the base for imposition of any tax, fee,