

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1145

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Public Safety
and Correctional Services)

Health and Government Operations

**Public Safety - 9-1-1 Emergency Telephone Systems - Prepaid Service - Collection
of Surcharge**

This departmental bill establishes that the surcharge on wireless telecommunication services applies to prepaid service and establishes the amount of the prepaid wireless E 9-1-1 fee at 60 cents per each retail transaction.

Fiscal Summary

State Effect: Special fund revenues and expenditures increase by \$1.2 million in FY 2012 and by \$1.6 million annually beginning in FY 2013.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	\$1,200,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
SF Expenditure	\$1,200,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
Net Effect	\$0	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government grant amounts increase by \$900,000 in FY 2012 and by \$1.2 million annually thereafter, varying by jurisdiction.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Bill Summary: The bill defines “prepaid wireless telecommunications service” as a commercial mobile radio service that allows a consumer to dial 9-1-1 to access the 9-1-1 system and that must be paid for in advance and is sold in predetermined units which decline with use.

The bill establishes a prepaid wireless E 9-1-1 fee of 60 cents per retail transaction, which must be collected by the “seller” from the “consumer” for each retail transaction in the State. The amount of the fee must be disclosed to the consumer at the time of the retail transaction.

A retail transaction occurs in the State if (1) the sale or recharge takes place at the seller’s place of business located in the State; (2) the consumer’s shipping address is in the State; or (3) no item is shipped, but the consumer’s billing address or the location associated with the consumer’s mobile telephone number is in the State. The prepaid fee is the liability of the consumer and not of the seller or of any “provider.”

The seller is liable for remitting all collected prepaid fees, but a seller may deduct and retain 2% of the collected fees.

A seller must remit to the Comptroller all prepaid wireless E 9-1-1 fees collected by the seller in the manner provided for the remitting of the State’s sales and use tax. The Comptroller must deposit all remitted fees into the 9-1-1 Trust Fund within 30 days of receipt. The audit and appeal procedures established for the sales and use tax apply.

A seller that is not a provider of prepaid wireless telecommunications service is not liable for damages in connection with (1) the provision of, or failure of 9-1-1 or E 9-1-1 service; (2) identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access either service; or (3) the provision of any lawful assistance to any investigative or law enforcement officer.

A tax, fee, surcharge, or other charge may not be imposed by the State, any political subdivision of the State, or any intergovernmental agency, for E 9-1-1 funding purposes, on any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

The bill requires the Comptroller to adopt regulations to carry out the provisions of the bill.

Current Law: The Emergency Numbers Systems Board was established by Chapter 730 of 1979. It coordinates installation and enhancement of county 9-1-1 emergency telephone number services systems. The board issues guidelines and determines review procedures to approve or disapprove county plans for these systems and sets criteria for reimbursing counties from the original 9-1-1 Trust Fund and from ongoing funds, and provides for audit of trust fund accounts.

Prepaid wireless telecommunication services do not now collect 9-1-1 surcharges or contribute to the trust fund.

Background: The 9-1-1 Trust Fund, which is administered by DPSCS, includes revenue from both a State and local surcharge that is assessed per bill for wired and wireless service. Revenue from the State fee is distributed to the Maryland counties at the discretion of the Emergency Number Systems Board in response to county 9-1-1 system enhancement requests.

Federal legislation enacted in 2008 prohibits states from receiving any federal 9-1-1-related grant funding if 9-1-1 fee revenues were used for purposes other than those defined as an eligible expense in State and federal law. According to the federal legislation, eligible expenses for the 9-1-1 fees can include emergency services Internet protocol networks, which are defined as engineered, managed networks that are intended to be multipurpose, supporting public safety communications services, in addition to 9-1-1.

Prepaid wireless service is a growing segment of the overall consumer wireless service. A prepaid wireless telephone plan is often less expensive than the traditional, monthly billed cell phone plans with unlimited calls. According to DPSCS, other states have or are currently considering a similar “point-of-service” model for collecting emergency number service fees. DPSCS indicates that this model is supported by the National Emergency Number Association, the wireless industry, and several retail outlets including Wal-Mart.

The fiscal 2012 budget allowance shows special fund revenues and expenditures for the 9-1-1 Emergency Number Systems of \$57.3 million.

State Fiscal Effect: DPSCS estimates that this bill will generate \$1.2 million in special fund revenue in fiscal 2012, which reflects the bill’s October 1, 2011 effective date. Of that amount, \$300,000 will be retained by the 9-1-1 Trust Fund and \$900,000 will be distributed to the counties and Baltimore City in varying amounts. Annualized, and assuming a relatively constant rate of return, beginning in fiscal 2013, the bill will generate \$1.6 million annually in revenue, with \$400,000 being retained by the 9-1-1 Trust Fund and \$1.2 million being distributed to the counties and Baltimore City in varying amounts.

Local Fiscal Effect: Under the bill, Baltimore City and the counties will share in distributions from the new revenue generated by the bill. In fiscal 2012, that amount is anticipated to be \$900,000. Future year distributions will total \$1.2 million. This revenue can be used by local governments to maintain and enhance local 9-1-1 systems.

Small Business Effect: All businesses currently selling prepaid telecommunication devices, or who intend to sell such devices at a later date, will be required to establish a system for the collection and remittance of the surcharge created by the bill. This may involve some minimal costs. However, because businesses are allowed to retain 2% of the collected fees, any such costs are anticipated to be largely offset.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of People's Counsel, Department of Public Safety and Correctional Services, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2011
mc/hlb

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Safety – 9-1-1 Emergency Telephone Systems – Prepaid
Service Collection of Surcharge

BILL NUMBER: HB 1145

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.