



House of Representatives

General Assembly

File No. 757

January Session, 2011

Substitute House Bill No. 6327

House of Representatives, May 5, 2011

The Committee on Finance, Revenue and Bonding reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE ENHANCED EMERGENCY 9-1-1 PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-256g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2012*):

3 (a) By June first of each year, the Department of Public Utility
4 Control shall conduct a proceeding to determine the amount of the
5 monthly fee to be assessed against each subscriber of: (1) Local
6 telephone service, (2) commercial mobile radio service, as defined in 47
7 CFR Section 20.3, and (3) voice over Internet protocol service, as
8 defined in section 28-30b, as amended by this act, [and (4) prepaid
9 wireless telephone service, as defined in section 28-30b,] to fund the
10 development and administration of the enhanced emergency 9-1-1
11 program. The department shall base such fee on the findings of the
12 Commissioner of Public Safety, pursuant to subsection (c) of section
13 28-24, taking into consideration any existing moneys available in the

14 Enhanced 9-1-1 Telecommunications Fund. The department shall
15 consider the progressive wire line inclusion schedule contained in the
16 final report of the task force to study enhanced 9-1-1
17 telecommunications services established by public act 95-318. The
18 department shall not approve any fee greater than fifty cents per
19 month per access line nor shall it approve any fee that does not include
20 the progressive wire line inclusion schedule.

21 (b) Each telephone or telecommunications company providing local
22 telephone service, each provider of commercial mobile radio service [,
23 each provider of prepaid wireless telephone service] and each provider
24 of voice over Internet protocol service shall assess against each
25 subscriber, the fee established by the department pursuant to
26 subsection (a) of this section, which shall be remitted to the [Office]
27 office of the State Treasurer for deposit into the Enhanced 9-1-1
28 Telecommunications Fund established pursuant to section 28-30a, as
29 amended by this act, not later than the fifteenth day of each month.

30 (c) The fee imposed under this section shall not apply to any
31 prepaid wireless telecommunications service, as defined in section 28-
32 30b, as amended by this act.

33 Sec. 2. Subsection (a) of section 28-30a of the general statutes is
34 repealed and the following is substituted in lieu thereof (*Effective*
35 *January 1, 2012*):

36 (a) There is established a fund to be known as the "Enhanced 9-1-1
37 Telecommunications Fund". The fund shall contain any moneys
38 required by law to be deposited in the fund, including, but not limited
39 to, any federal funds collected pursuant to subsection (d) of section 28-
40 24 and fees assessed against subscribers of local telephone service,
41 [and] subscribers of commercial mobile radio services [,] pursuant to
42 section 16-256g, as amended by this act, and revenues from the
43 prepaid wireless E 9-1-1 fee imposed pursuant to section 4 of this act.
44 The Enhanced 9-1-1 Telecommunications Fund shall be held separate
45 and apart from all other moneys, funds and accounts. Interest derived
46 from the investment of the fund shall be credited to the assets of the

47 fund. Any balance remaining in the fund at the end of any fiscal year
48 shall be carried forward in the fund for the fiscal year next succeeding.

49 Sec. 3. Section 28-30b of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective January 1, 2012*):

51 As used in sections [28-30b to 28-30d, inclusive] 28-30a, 28-30b and
52 28-30d, as amended by this act, and sections 4 to 6, inclusive, of this
53 act:

54 (1) ["Active prepaid wireless telephone service" means a prepaid
55 wireless telephone service that has an account that has a positive
56 balance greater than or equivalent to the fee to fund the enhanced
57 emergency 9-1-1 program pursuant to section 16-256g.] "Consumer"
58 means a person who purchases prepaid wireless telecommunications
59 in a retail transaction.

60 (2) "Prepaid wireless E 9-1-1 fee" means the charge that any seller
61 collects from a consumer in an amount established by section 4 of this
62 act.

63 [(2)] (3) "Prepaid wireless [telephone] telecommunications service"
64 means a wireless telephone service that [is activated in advance by
65 payment for a finite dollar amount of service or for a finite set of
66 minutes that terminate either upon use by a subscriber and delivery by
67 the wireless provider of an agreed upon amount of service
68 corresponding to the total dollar amount paid in advance or within a
69 certain period of time following the initial purchase or activation,
70 unless additional payments are made] a consumer pays for in advance
71 and that allows the consumer to access the E 9-1-1 system by dialing 9-
72 1-1. Such service is sold in predetermined units of minutes or dollars
73 and such units of minutes or dollars decline with use.

74 [(3) "Mobile telephone number" or "MTN" means the telephone
75 number assigned to a wireless telephone at the time of activation.]

76 (4) "Provider" means any person who provides prepaid wireless
77 telecommunications service pursuant to a license issued by the Federal

78 Communications Commission.

79 (5) "Retail transaction" means a purchase of prepaid wireless
80 telecommunications service from a seller for any purpose other than
81 resale.

82 (6) "Seller" means a person who sells prepaid wireless
83 telecommunications service to a consumer.

84 ~~[(4)]~~ (7) "Voice over Internet protocol service" or "VOIP" means a
85 service that has the following characteristics: (A) Enables real-time,
86 two-way voice communication; (B) requires a broadband connection
87 from the users' locations; (C) requires IP-compatible customer
88 premises equipment; and (D) allows subscribers generally to receive
89 calls that originate on the public switched telephone network and to
90 terminate calls on the public switched telephone.

91 ~~[(5)]~~ (8) "Voice over Internet protocol service provider" or "VOIP
92 service provider" means a company that provides VOIP telephone
93 service.

94 (9) "Wireless telecommunications service" means commercial mobile
95 radio service as defined in 47 CFR Section 20.3, as from time to time
96 amended.

97 Sec. 4. (NEW) *(Effective January 1, 2012)* (a) Each consumer shall be
98 assessed a prepaid wireless E 9-1-1 fee. Such fee shall be fifty cents for
99 each retail transaction.

100 (b) Any seller conducting a retail transaction within this state with a
101 consumer shall collect the fee described in subsection (a) of this section
102 from such consumer. The seller shall disclose to the consumer the
103 amount of such fee assessed in an invoice, a receipt, or other similar
104 document, or by some other manner.

105 (c) For the purposes of subsection (b) of this section, a retail
106 transaction made in the presence of the consumer at the place of
107 business of the seller shall be treated as occurring in this state if such

108 place of business is within the state, and any other retail transaction
109 shall be treated as occurring in this state if the retail transaction is
110 treated as occurring in this state under subdivision (2) of subsection (a)
111 of section 12-407 of the general statutes for the purposes of the sales
112 and use tax.

113 (d) The consumer shall be liable for any prepaid wireless E 9-1-1 fee.
114 There shall be no liability on the part of the seller or provider, except
115 the seller shall be liable to remit any prepaid wireless E 9-1-1 fees that
116 the seller collects from any consumer, as provided in section 5 of this
117 act, including, but not limited to, any such fee that the seller collects
118 but does not separately state on an invoice, receipt, or other similar
119 document provided to the consumer, as required by subsection (b) of
120 this section.

121 (e) The amount of the prepaid wireless E 9-1-1 fee that a seller
122 collects from a consumer shall not be included in the base for
123 measuring any tax, fee, surcharge, or other charge that the state, any
124 political subdivision of the state, or any intergovernmental agency
125 imposes on such seller, provided the seller separately stated such
126 amount in an invoice, receipt, or other similar document provided to
127 the consumer.

128 Sec. 5. (NEW) (*Effective January 1, 2012*) Any seller who collects a
129 prepaid wireless E 9-1-1 fee shall remit such fee to the office of the
130 State Treasurer for deposit into the Enhanced 9-1-1
131 Telecommunications Fund established pursuant to section 28-30a of
132 the general statutes, as amended by this act, not later than thirty
133 calendar days after such fee is collected. A seller who collects a prepaid
134 wireless E 9-1-1 fee may retain one per cent of such fee.

135 Sec. 6. (NEW) (*Effective January 1, 2012*) (a) No provider or seller of
136 prepaid wireless telecommunications service shall be liable for
137 damages to any person resulting from or incurred in connection with
138 the provision of, or failure to provide, 9-1-1 or E 9-1-1 service, or for
139 identifying, or failing to identify, the telephone number, address,
140 location, or name associated with any person or device that is

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Safety, Dept.	Enhanced 9-1-1 Fund - Revenue Gain	1.2 million	2.4 million

Municipal Impact: None

Explanation

The bill results in an estimated \$2.4 million revenue gain annually to the Enhanced 9-1-1 (E 9-1-1) Fund by establishing a monthly fee of 50 cents on prepaid wireless phones to be remitted to the E-9-1-1 Fund.

The bill applies the E 9-1-1 fee at the point of sale of prepaid phones and additional minutes for such phones. The bill would capture 100% of the prepaid phone market and result in a revenue gain of \$2.4 million in FY 12 and FY 13. Under current law only an estimated 30% of the prepaid phone market pays the fee (See Background)

It is anticipated that a portion of prepaid customers purchase additional minutes multiple times a month, while others purchase minutes on a monthly or less than monthly basis. There will therefore be customers who pay the fee multiple times per month while others pay on a monthly or less than monthly basis. The estimate reflects this variation in consumer behavior.

Background

Under current law, the E 9-1-1 fee is charged to prepaid customers through a mechanism where the phone company extracts the number

of minutes equivalent to the fee rate. For example, if the phone company charges ten cents per minute, then the company extracts five minutes of time off the prepaid phone each month. The cost of the five minutes is fifty cents, which is the current E 9-1-1 monthly fee. By law, phone companies are required to tell the customer the day in which their minutes would be extracted to pay the monthly fee. The phone company can only extract minutes if the customer has enough minutes to cover the cost of the fee. If the customer has zero minutes on their prepaid phone on the date of the extraction, then the company cannot take the minutes and therefore cannot remit the fee for that phone line. It is estimated that phone companies are capturing the fee on only 30% of the prepaid phone market under current law.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6327*****AN ACT CONCERNING THE ENHANCED EMERGENCY 9-1-1 PROGRAM.*****SUMMARY:**

Current law requires the Department of Public Utility Control (DPUC) to determine, and telecommunications service providers to assess, a monthly fee (currently 50 cents) on subscribers of telecommunications services. The fees pay for the Enhanced 9-1-1 (E 9-1-1) program. This bill eliminates the monthly fee for subscribers of prepaid wireless telephone services and, instead, levies a 50-cent fee (prepaid wireless E 9-1-1 fee) on each purchase of prepaid wireless telecommunications services from a retailer. For example, a person who buys telephone minutes once per month pays 50 cents; a person who buys minutes four times pays \$2.

The bill requires retailers to collect the prepaid wireless E 9-1-1 fee. It allows them to keep 1% of the amount collected and requires them to remit the balance to the Office of the State Treasurer for deposit in the E 9-1-1 Telecommunications Fund.

The bill specifies that providers and sellers of prepaid wireless telecommunications services are not liable for damages to anyone resulting from (1) providing lawful assistance to law enforcement officers, (2) providing, or failing to provide, 9-1-1 or E 9-1-1 service or (3) identifying, or failing to identify, information associated with anyone accessing or attempting to access 9-1-1 or E 9-1-1 service.

EFFECTIVE DATE: January 1, 2012

PREPAID WIRELESS FEES***E 9-1-1 Fee Assessment and Collection***

Under current law, DPUC must determine the monthly fee to be assessed on subscribers of the following telecommunications services: (1) local telephone, (2) commercial mobile radio service (e.g., cell phone), (3) voice over Internet protocol, and (4) prepaid wireless telephone service. The fee, which by law is capped at and is currently 50 cents, pays for the E 9-1-1 program.

The bill creates a separate assessment method for and replaces the monthly assessment on people who buy prepaid wireless telecommunications service with a 50-cent per transaction assessment. The bill replaces the term “prepaid wireless telephone service” with “prepaid wireless telecommunications service” to reflect the enhanced capability of current technology. It defines “prepaid wireless telecommunications service” as a service that a consumer pays for in advance, allowing him or her to access the E 9-1-1 system by dialing 9-1-1. The service is sold in predetermined units of minutes or dollars, which decline with use.

Collection and Remittance of E 9-1-1 Fees

The bill requires Connecticut retailers to collect the prepaid wireless E 9-1-1 fee from consumers whenever they buy prepaid wireless communications services.

The bill allows them to retain 1% of the fees and requires them to remit the balance to the state treasurer for deposit in the E 9-1-1 Telecommunications Fund no later than 30 calendar days after the collection. Under current law, wireless service providers assess the monthly fee against their subscribers and pay a fee to the state treasurer for deposit in the fund.

The retailers must disclose the amount of the fee to consumers in an invoice, a receipt, other similar document, or in some other manner.

A retail transaction must be treated as occurring in Connecticut if it is (1) made in the consumer’s presence at the retailer’s business place in Connecticut or (2) treated as a Connecticut transaction for sales and use tax purposes.

Consumers are liable for paying the prepaid wireless E 9-1-1 fee. Sellers and providers of prepaid wireless telecommunications services have no liability, except that they must remit any fees they collect, including any fees not separately stated on an invoice, receipt, or other similar document they give to the consumer.

Treatment of Prepaid Wireless E 9-1-1 Fees for Tax Purposes

The amount of the prepaid wireless E 9-1-1 fees that sellers collect must not be included in the base for measuring any tax, fee, surcharge, or other charge that the state, any state political subdivision, or any intergovernmental agency imposes on a seller, as long as the seller separately stated the amount in an invoice, receipt, or other similar document provided to the consumer.

Liability of Sellers and Providers

Under the bill, providers or sellers of prepaid wireless telecommunications services are not liable for damages to anyone resulting from or incurred in providing lawful assistance to any investigative or law enforcement officer, in connection with any lawful investigation or other law enforcement activity. They are also not liable for damages to anyone resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 or E 9-1-1 service, or for identifying, or failing to identify, the telephone number, address, location, or name associated with any person or device accessing or attempting to access 9-1-1 or E 9-1-1 service.

BACKGROUND

The E 9-1-1 System and Funding

The E 9-1-1 system provides dispatch services to people who call 9-1-1. The public safety commissioner must annually determine the amount of funds needed to develop and administer the system. Funding for the system is generated by a monthly surcharge levied on all phone lines (CGS § 28-30a). DPUC sets the surcharge based on cost and usage data provided by the Office of State-Wide Emergency Telecommunications (OSET).

Current rates are at the statutory cap of 50 cents per month for subscribers with a single telephone line (CGS § 16-256g). Subscribers with multiple lines are assessed on a sliding scale, starting at 50 cents for the first line. Subscribers pay the surcharge to their telephone service provider which, in turn, remits it to OSET monthly for deposit in the E 9-1-1 Telecommunications Fund.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference

Yea 23 Nay 0 (03/15/2011)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 49 Nay 0 (04/18/2011)