

9-1-1 Coordination Board Meeting

Via Teleconference

Public Listening Location – 118 W. Capitol Avenue, Pierre, SD 57501
South Dakota Department of Public Safety

July 14, 2011 – 2:00 PM Central

AGENDA

- I. Call to Order & Roll Call
- II. Approval of July 14, 2011 Agenda
- III. Approval of April 11-12, 2011 Meeting Minutes
- IV. Public Comment
- V. Discussion and potential board action on the Board's report, "9-1-1 Funding in South Dakota: Current Status and Future Challenges."
- VI. Update on 9-1-1 surcharge issue/potential legislation
- VII. Discussion on point-of-sale legislation
- VIII. Discussion on proposed administrative rules regarding radio equipment and addressing/street signage
- IX. Subcommittee Reports
 - i. Technical Subcommittee
 - ii. Operations Subcommittee
 - iii. Legislative Subcommittee
- X. Coordinator's Report
 - i. State 9-1-1 Plan outline
 - ii. Rules compliance
 - iii. 2010 financial reporting – final analysis
 - iv. 2011 Annual Report
- XI. Other Business
- XII. Adjourn

**9-1-1 Coordination Board Meeting
July 14, 2011 Agenda – Page Two**

Teleconference access: Dial: 866-939-8416 Participant ID: 9243888

Any questions regarding this meeting or agenda can be directed to:

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South Dakota 9-1-1 Coordination Board

Meeting Minutes for April 11-12, 2011 (DRAFT)
Cedar Shore Resort, Oacoma, South Dakota
South Dakota Department of Public Safety

April 11, 2011

Board members present: Barthel, Carmon, Falken, Goldschmidt, Haines, Ruffedt, Sawvell, Sebert, Serr, Turman

Board members absent: Turbak

Staff present: Michael Houdyshell (9-1-1 Coordinator, DPS Attorney)

Others present: Greg Dean, Edie Jenniges, Tom Sandvick, Elton Blemaster, Rich Rasmussen, Kathryn Benton, Joe Hutmacher

I. Call to Order & Roll Call

Meeting called to order at 1:00 PM by Chairperson Ruffedt. Roll was taken and a quorum was present.

II. Approval of Agenda

Motion to approve agenda.

Moved by: Sebert Second by: Haines

Discussion: None

Conclusion: Motion carried unanimously.

III. Approval of December 16, 2010 Meeting Minutes

Motion to approve meeting minutes.

Moved by: Sebert Second by: Carmon

Discussion: None

Conclusion: Motion carried unanimously.

IV. Public Comment

Rich Rasmussen, Brule County Commissioner, asked the Board if siren and radio upgrades were allowable expenditures of the 9-1-1 surcharge. Rasmussen commented that the county had surcharge monies available for those expenditures, but was unsure whether the Board's administrative rules allowed expenditures on these items.

Kathryn Benton, Brule County Emergency Manager, provided additional information to the Board regarding the county's issues with the current sirens and radios. Benton noted that the county had secured grant funding for the required upgrades, but that a match was required by the terms of the grant and the surcharge was one source of match the county was considering at the time.

Joe Hutmacher, Chamberlain, SD Police Chief, provided the Board with information regarding the lack of coverage available on the state radio system in portions of Brule County. Hutmacher explained that the requested upgrades would ensure that fire, police, and medical personnel had adequate communications throughout the county.

V. Election of Board Chair and Vice Chair

Chairman Rufledt opened the floor for nominations for the positions of Board Chair and Vice Chair. Rufledt noted that the Amended Bylaws require election of Chair and Vice Chair during the Annual Meeting in October; however, this was not done in 2010. In order to get back on schedule, Rufledt sought nominations for both positions to serve from the present date to the Annual Meeting in October of 2011.

Motion to nominate Rufledt as Chair and Haines as Vice Chair.

Moved by: Barthel Second by: Sebert

Discussion: Barthel commented that both Rufledt and Haines had served the Board admirably during the past and should continue to lead the Board going forward. Haines concurred that Rufledt should continue as Chair.

Conclusion: Motion carried unanimously.

VI. Review of 9-1-1 Board and Committees: continue as is or changes needed?

Houdyshell gave an overview of the current Board subcommittees and membership terms.

Motion to create a nomination subcommittee.

Moved by: Carmon Second by: Haines

Discussion: Carmon commented that the Board should have a subcommittee to make recommendations for future Chair and Vice Chair nominees. Barthel, Carmon, and Falken volunteered to sit on a nomination subcommittee.

Conclusion: Motion carried unanimously.

VII. Re-cap of 2011 Legislative Session and possible legislation for 2012

Houdyshell provided a re-cap of HB 1014, which passed during the 2011 legislative session. Houdyshell commented that the legislation improved the Board's ability to oversee the use of 9-1-1 surcharge monies through administrative rulemaking and provided clarity to the purpose of the 9-1-1 surcharge.

Houdyshell then provided an update on the Winbourne & Costas, Inc. contract and 2009 surcharge data collection project. Houdyshell noted that the consultant agreed to accept eighty-five percent of the total contract amount as payment in full on the contract and to cease work on the report.

Motion to acknowledge receipt of consultant's final draft of report and settlement of contract for eighty-five percent of total contract amount in lieu of full payment of the total contract amount.

Moved by: Carmon Second by: Serr

Discussion: None

Conclusion: Motion carried unanimously.

Houdyshell then described the white paper he prepared based on the consultant's analysis and the Board's funding subcommittee internal review of the 2009 surcharge data. Houdyshell will make any necessary final revisions prior to the next Board meeting.

The Board then discussed whether a formal position needed to be taken in regard to a potential surcharge increase.

Motion to authorize the state Coordinator to discuss a surcharge increase with the Secretary of Public Safety and to have the Secretary brief the Governor's staff on the situation and report back with the administration's position on the matter.

Moved by: Carmon Second by: Sawvill

Discussion: None

Conclusion: Motion carried unanimously.

Houdyshell then discussed the issue of point-of-sale collection of the surcharge on prepaid wireless service. Houdyshell commented that at least three states currently have laws requiring point-of-sale collection and several other states either have proposed legislation or are considering point-of-sale collection on prepaid wireless service.

Motion to refer issue to funding subcommittee.

Moved by: Barthel Second by: Sebert

Discussion: None

Conclusion: Motion carried unanimously.

VIII. Discussion on possible administrative rulemakings.

Rufledt deferred this agenda item until the next day's session.

IX. Presentation on NG911 by SDN/IES

SDN Communications and IES provided an overview of their NG911 solution to the Board.

April 12, 2011

Board members present: Barthel, Carmon, Falken, Goldschmidt, Haines, Rufledt, Sawvell, Sebert, Serr, Turman

Board members absent: Turbak

Staff present: Michael Houdyshell (9-1-1 Coordinator, DPS Attorney)

Others present: Edie Jenniges, Tom Sandvick, Elton Blemaster

X. Continued discussion on possible administrative rulemakings from previous day.

i. Radio equipment

The Board had a discussion on whether certain purchases of certain radio equipment should be an allowable expenditure of the surcharge. Draft language for a possible

administrative rule was discussed. The board discussed possible revisions to the draft language.

Motion to accept radio equipment rule proposal and to direct Chairman Rufledt and Coordinator Houdyshell to clarify the draft language prior to the next Board meeting.

Moved by: Barthel Second by: Sebert

Discussion: None

Conclusion: Motion carried unanimously.

ii. Addressing and street signs

The Board had a discussion on what addressing and street signage expenditures should be allowable uses of the surcharge. Haines suggested some revisions to the proposed rule, which will be incorporated by Houdyshell in a subsequent redraft.

Motion to accept addressing and street sign rule proposal with Haines revisions.

Moved by: Carmon Second by: Haines

Discussion: None

Conclusion: Motion carried on a 8-1 vote (Serr voting Nay)

iii. 9-1-1 Fund balances

The Board discussed a proposed rule regarding county/municipal 9-1-1 Fund balances. Houdyshell stated that he had sent the draft language to the Department of Legislative Audit for feedback, but had not heard back as of today. The board agreed that some limits on fund balances may be necessary, but felt it would be better to hear from DLA prior to moving forward. Chairman Rufledt tabled the issue.

iv. MLTS (multi-line telephone systems)

Rufledt briefed the Board on the issues involving multi-line telephone systems. Several states have legislation addressing the issue, but nothing has been done in South Dakota to require E911 compliance for MLTS. Houdyshell commented that he thought the issue should be addressed legislatively.

Motion to refer the MLTS issue to the technical subcommittee for further study.

Moved by: Barthel Second by: Falken

Discussion: None

Conclusion: Motion carried unanimously.

XI. Discussion of State 9-1-1 Plan and NG911 issues

Rufledt led a discussion on the preparation of a state 9-1-1 Plan, which the Board is tasked with per state law. Several sample plans from other states were distributed to the Board for review. It was agreed that the Board could use other state plans to develop an outline of what South Dakota's state plan should contain. Rufledt asked the Chairs of each subcommittee to review the sample plans and provide Houdyshell with a summary of what each member felt should be in the South Dakota plan. Houdyshell will then prepare an outline of a draft plan for review at the next Board meeting. The Board will then assign sections of the plan to the appropriate subcommittees for completion.

XII. Coordinator's Report

i. Updated on AT&T prepaid surcharge issue

Houdyshell briefed the Board on the prepaid wireless remittance issue caused by the Alltel-AT&T transition. According to Houdyshell, the problem has been identified by AT&T and the company will be filing amended returns for the 3rd and 4th quarters of 2010 and will be remitting 1st quarter 2011 prior to the April 30 deadline. The Board directed Houdyshell to send a letter to AT&T confirming its understanding of the resolution.

ii. Update on North Sioux City/Union County issue

Houdyshell briefed the Board on the ongoing issue in Union County regarding the efforts of North Sioux City to collect the surcharge on wireless users within the corporate boundaries of the municipality. The Board does not consider this to be an issue for Board resolution and directed Houdyshell to draft a letter to the parties explaining that the Board will not be intervening in the matter.

iii. PSAP rules compliance surveys/rules compliance issues

Houdyshell briefed the Board on the rules compliance surveys and indicated that there are several surveys yet to be completed. Board members who have not completed their assigned surveys will do so at their earliest convenience. Houdyshell will then compile the results and begin calling or visiting PSAPs with compliance issues.

iv. Update on Board newsletter/regular communications with PSAPs

Houdyshell informed the Board that he intends to prepare a Coordinator's report to periodically distribute to the PSAPs. The purpose of the report will be to keep PSAPs

informed on the Board's work and to provide guidance on rules compliance issues and other matters.

v. PSAP Master Files

Houdyshell showed the Board an example of the PSAP Master Files he is compiling for all 34 PSAPs in the state. The Master File will contain policy and procedures, points of contact information, annual financial reports, and other materials as needed.

XIII. Board meeting dates for remainder of 2011 and other business

The Board agreed on a meeting schedule for the remainder of 2011: June 9th, August 11th, October 13th, and December 8th. All meetings will be held in Oacoma, SD. Meetings in 2012 may move to various locations throughout the state.

XIV. Adjourn

Motion to Adjourn

Moved by: Serr Second by: Sebert

Motion carried unanimously

Meeting adjourned at 12:02 PM



	YTD ACTUAL FY2009	YTD ACTUAL FY2010	ACTUAL Jul 10	ACTUAL Aug 10	ACTUAL Sep 10	ACTUAL Oct 10	ACTUAL Nov 10	ACTUAL Dec 10	ACTUAL Jan 11	ACTUAL Feb 11	ACTUAL Mar 11	ACTUAL Apr 11	ACTUAL May 11	TOTAL FY11 YTD
911 Surcharge	\$138,755	\$250,756	\$1,429	\$57,606	\$0	\$7,583	\$10,980	\$0	\$1,672	\$30,656	\$0	\$67,000	\$53,204	\$230,111
Investment Council (Yearly Income)		\$1,558			\$8,261									\$8,261
TOTAL RECEIPTS	\$138,755	\$252,314	\$1,429	\$57,606	\$8,261	\$7,583	\$10,980	\$0	\$1,672	\$30,656	\$0	\$67,000	\$53,204	\$238,372
Personal Services	\$20,442	\$60,974	\$1,106	\$3,466	\$2,161	\$2,784	\$1,626	\$2,404	\$2,940	\$2,622	\$2,188	\$4,973	\$1,676	\$27,947
Travel	\$6,200	\$13,705		\$339	\$321	\$786	\$205						\$1,412	\$3,063
Contractual	\$950	\$5,082	\$73	\$262	\$633	\$150	\$80	\$340	\$135	\$13	\$25,717		\$272	\$27,677
Supplies	\$647	\$1,352			\$2		\$3						\$76	\$81
Grants	\$0	\$0												\$0
Capital Outlay	\$0	\$323		\$2,002							\$910			\$2,912
Indirect Cost Allocation	\$0	\$3,583							\$2,051			\$1,478		\$3,986
TOTAL DISBURSEMENTS	\$28,239	\$85,019	\$1,180	\$6,069	\$3,117	\$4,176	\$1,915	\$2,744	\$5,126	\$2,635	\$28,816	\$6,452	\$3,436	\$65,665
NET (Receipts less Disbursements)	\$110,516	\$167,295	\$250	\$51,536	\$5,144	\$3,407	\$9,045	(\$2,744)	(\$3,454)	\$28,021	(\$28,816)	\$60,549	\$49,768	\$172,707
BEGINNING CASH BALANCE	\$0	\$110,516	\$277,811	\$278,061	\$329,597	\$334,741	\$338,148	\$347,193	\$344,449	\$340,995	\$369,016	\$340,201	\$400,750	\$277,811
ENDING CASH BALANCE	\$110,516	\$277,811	\$278,061	\$329,597	\$334,741	\$338,148	\$347,193	\$344,449	\$340,995	\$369,016	\$340,201	\$400,750	\$450,518	\$450,518



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

**NCSL RESOLUTION ON THE COLLECTION OF E911 FEES ON WIRELESS
PREPAID SERVICE AT THE POINT-OF-SALE ACT**

**EXECUTIVE COMMITTEE TASK FORCE ON STATE & LOCAL TAXATION OF
COMMUNICATIONS AND ELECTRONIC COMMERCE**

WHEREAS, E9-1-1 fees have historically been collected from telecommunications users on their monthly bills and remitted to governments by telecommunications providers; and

WHEREAS, the lack of a billing relationship between the prepaid wireless user and the sellers and providers of prepaid wireless service means that the existing collection methodologies are not well suited to prepaid wireless, causing administrative and legal disputes that inhibit collection of E9-1-1 fees on prepaid wireless service; and

WHEREAS, the number of prepaid wireless users has grown from less than 6% of the wireless marketplace in 2003 to over 18% in 2009; and

WHEREAS, the growth in popularity of prepaid wireless service has led states to consider methods to impose E9-1-1 fees on prepaid wireless service; and

WHEREAS, prepaid wireless users benefit from the access to the 9-1-1 system and should therefore contribute proportionately to funding the 9-1-1 system; and

WHEREAS, the prepaid wireless industry has approached the states with model legislation to create a uniform collection methodology that would collect prepaid wireless E9-1-1 fees on end users at the retail point of sale; and

WHEREAS, the adoption of a uniform methodology for collecting E9-1-1 fees from prepaid wireless consumers would provide needed funding for E9-1-1 systems while minimizing administrative costs for states and providers of prepaid wireless service; and

WHEREAS, the adoption of variations of the model legislation by the states of Maine, Texas, Louisiana and Wisconsin in 2009 legislation demonstrates the need for the National Conference of State Legislatures to endorse a single model to encourage states to adopt an uniform approach; and

WHEREAS, consistent state action through enactment of a model legislation for the collection of E9-1-1 fees on prepaid will forestall federal government intrusion or preemption.

THEREFORE, LET IT BE RESOLVED, that the National Conference of State Legislatures endorses the point-of-sale model legislation, the "Prepaid Wireless Charge," and calls upon State legislatures to pass legislation that implements point-of-sale-collection of E911 fees.

Adopted by the NCSL Executive Committee on State and Local Taxation of Communications and Electronic Commerce, July 20, 2009

1 **Model Legislation**
2 As approved by the NCSL Executive Committee Task Force
3 on State & Local Taxation of Communications and Electronic Commerce
4
5
6

7 An act imposing a uniform, statewide E911 charge¹ on the retail sale of prepaid wireless
8 telecommunication services to consumers, precluding the application of other state and local
9 E911 charges to such services, and making conforming changes.
10

11

12 SECTION 1. SHORT TITLE.

13 This Act may be cited as the Prepaid Wireless E911 Charge Act of 20__.

14 SECTION 2. FINDINGS. The Legislature finds that –

- 15 A. Maintaining effective and efficient 911 systems across the state benefits all citizens;
- 16 B. 911 fees imposed upon the consumers of telecommunication services that have the ability
17 to dial 911 are an important funding mechanism to assist state and local governments with the
18 deployment of enhanced 911 services to the citizens of this state;
- 19 C. Prepaid wireless telecommunication services are an important segment of the
20 telecommunications industry and have proven particularly attractive to low-income, low-volume
21 consumers;
-

¹ Depending on state law, “fee” or “tax” may be a more appropriate label than “charge.”

1 D. Unlike traditional telecommunication services, prepaid wireless telecommunications
2 services are not sold or used pursuant to term contracts or subscriptions, and monthly bills are
3 not sent to consumers by prepaid wireless telecommunication service providers or retail vendors;

4 E. Prepaid wireless consumers have the same access to emergency 911 services from their
5 wireless devices as wireless consumers on term contracts, and prepaid wireless consumers
6 benefit from the ability to access the 911 system by dialing 911;

7 F. Consumers purchase prepaid wireless telecommunication services at a wide variety of
8 general retail locations and other distribution channels, not just through service providers;

9 G. Such purchases are made on a “cash-and-carry” or “pay-as-you-go” basis from retailers;
10 and

11 H. To ensure equitable contributions to the funding of 911 systems from consumers of
12 prepaid wireless telecommunication services, the collection and payment obligation of charges to
13 support E911 should be imposed upon the consumer’s retail purchase of the prepaid wireless
14 telecommunication service and should be in the form of a single, statewide charge that is
15 collected once at the time of purchase directly from the consumer, remitted to the state, and
16 distributed to E911 authorities pursuant to state law.

17 SECTION 3. DEFINITIONS. For purposes of this Act, the following terms shall have the
18 following meanings:

19 “Consumer” means a person who purchases prepaid wireless telecommunications service in a
20 retail transaction.

1 “Department” means the [Department of Revenue].²

2 “Prepaid wireless E911 charge” means the charge that is required to be collected by a seller from
3 a consumer in the amount established under Section 4 of this Act.

4 “Prepaid wireless telecommunications service” means a wireless telecommunications service
5 that allows a caller to dial 911 to access the 911 system, which service must be paid for in
6 advance and is sold in predetermined units or dollars of which the number declines with use in a
7 known amount.³

8 “Provider” means a person that provides prepaid wireless telecommunications service pursuant
9 to a license issued by the Federal Communications Commission.

10 “Retail transaction” means the purchase of prepaid wireless telecommunications service from a
11 seller for any purpose other than resale.

² The proper agency will vary from state to state, but should be the agency that administers whatever tax (e.g., sales tax) provides the registration, resale-exemption, audit, and appeal procedures that are incorporated by reference in this Act.

³ Alternatively, define by cross reference to sales tax statute. For example, if state has adopted SSUTA, substitute the following:

“Prepaid wireless telecommunications service” means prepaid wireless calling service as defined in [SECTION IMPLEMENTING SSUTA DEFINITION].

1 “Seller” means a person who sells prepaid wireless telecommunications service to another
2 person.

3 “Wireless telecommunications service” means commercial mobile radio service as defined by
4 section 20.3 of title 47 of the Code of Federal Regulations, as amended.⁴

5 SECTION 4. COLLECTION AND REMITTANCE OF E911 CHARGE.

6 A. AMOUNT OF CHARGE. The prepaid wireless E911 charge shall be [____per retail
7 transaction] [____% of the sales price per retail transaction]⁵ or, on and after the effective date
8 of an adjusted amount per retail transaction that is established under paragraph F of this Section
9 4, such adjusted amount.

10 B. COLLECTION OF CHARGE. The prepaid wireless E911 charge shall be collected by
11 the seller from the consumer with respect to each retail transaction occurring in this state. The
12 amount of the prepaid wireless E911 charge shall be either separately stated on an invoice,

⁴ Alternatively, define by cross reference to sales tax statute. For example, if state has adopted SSUTA, substitute the following:

“Wireless telecommunications service” means mobile wireless service as defined
in [SECTION IMPLEMENTING SSUTA DEFINITION].

⁵ States may choose to impose either a flat fee per retail transaction or a percentage of each transaction. The fee should be set at an amount that is not more than one-half of the state’s monthly postpaid E911 charge.

1 receipt, or other similar document that is provided to the consumer by the seller, or otherwise
2 disclosed to the consumer.

3 C. APPLICATION OF CHARGE. For purposes of paragraph B of this Section 4, a retail
4 transaction that is effected in person by a consumer at a business location of the seller shall be
5 treated as occurring in this state if that business location is in this state, and any other retail
6 transaction shall be treated as occurring in this state if the retail transaction is treated as occurring
7 in this state for purposes of [STATE LAW REFERENCE].⁶

8 D. LIABILITY FOR CHARGE. The prepaid wireless E911 charge is the liability of the
9 consumer and not of the seller or of any provider, except that the seller shall be liable to remit all
10 prepaid wireless E911 charges that the seller collects from consumers as provided in Section 5 of
11 this Act, including all such charges that the seller is deemed to collect where the amount of the
12 charge has not been separately stated on an invoice, receipt, or other similar document provided
13 to the consumer by the seller.

14 E. EXCLUSION OF E911 CHARGE FROM BASE OF OTHER TAXES AND FEES. The
15 amount of the prepaid wireless E911 charge that is collected by a seller from a consumer, if such
16 amount is separately stated on an invoice, receipt, or other similar document provided to the
17 consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or
18 other charge that is imposed by this state, any political subdivision of this state, or any
19 intergovernmental agency.

⁶ Cross reference to the state transaction tax that provides sourcing rules to be piggybacked here.

1 F. RE-SETTING OF CHARGE. The prepaid wireless E911 charge shall be proportionately
2 increased or reduced, as applicable, upon any change to [the state E911 charge on postpaid
3 wireless telecommunications service under [STATE LAW REFERENCE]].⁷ Such increase or
4 reduction shall be effective on the effective date of the change to the postpaid charge or, if later,
5 the first day of the first calendar month to occur at least 60 days after the [enactment]⁸ of the
6 change to the postpaid charge. The Department shall provide not less than 30 days of advance
7 notice of such increase or reduction on the Department’s website.

8 G. BUNDLED TRANSACTIONS.⁹ When prepaid wireless telecommunications service is
9 sold with one or more other products or services for a single, non-itemized price, then the
10 percentage specified in Section 4 (A) shall apply to the entire non-itemized price unless the seller
11 elects to apply such percentage to:

- 12 1. if the amount of the prepaid wireless telecommunications service is disclosed to the
- 13 consumer as a dollar amount, such dollar amount; or

⁷ Will need to be adjusted depending on whether a state-level postpaid E911 charge applies.

⁸ The term “implementation” may be substituted if the postpaid charge can change without enactment of a new law or an amendment to existing law.

⁹ Subsection G is only required if a state elects to impose a percentage-based 911 fee in subsection A of Section 4.

1 2. if the seller can identify the portion of the price that is attributable to the prepaid
2 wireless telecommunications service by reasonable and verifiable standards from its books and
3 records that are kept in the regular course of business for other purposes including, but not
4 limited to, non-tax purposes, such portion.

5 However, if a minimal amount of prepaid wireless telecommunications service is sold with a
6 prepaid wireless device for a single, non-itemized price, then the seller may elect not to apply the
7 percentage specified in subparagraph a. to such transaction. For purposes of this paragraph, an
8 amount of service denominated as ten (10) minutes or less, or five dollars (\$5) or less, is
9 minimal.

10 SECTION 5. ADMINISTRATION OF E911 CHARGE.

11 A. TIME AND MANNER OF PAYMENT. Prepaid wireless E911 charges collected by
12 sellers shall be remitted to the Department at the times and in the manner provided by [SALES
13 TAX LAW]¹⁰ with respect to [SALES TAX]. The Department shall establish registration and
14 payment procedures that substantially coincide with the registration and payment procedures that
15 apply to [SALES TAX].

16 B. SELLER ADMINISTRATIVE DEDUCTION. A seller shall be permitted to deduct and
17 retain three percent (3%) of prepaid wireless E911 charges that are collected by the seller from
18 consumers.

¹⁰ Reference should be to a transfer tax of general application (e.g., sales tax or excise tax) and not to a communications-specific tax.

1 C. AUDIT AND APPEAL PROCEDURES. The audit and appeal procedures applicable to
2 [SALES TAX] under the [SALES TAX LAW] shall apply to prepaid wireless E911 charges.

3 D. EXEMPTION DOCUMENTATION. The Department shall establish procedures by
4 which a seller of prepaid wireless telecommunications service may document that a sale is not a
5 retail transaction, which procedures shall substantially coincide with the procedures for
6 documenting sale for resale transactions for [SALES TAX] purposes under the [SALES TAX
7 LAW].

8 E. DISPOSITION OF REMITTED CHARGES. The Department shall pay all remitted
9 prepaid wireless E911 charges over to [911 AGENCY]¹¹ within [30] days of receipt, for use by
10 [911 AGENCY] in accordance with the purposes permitted by [911 AGENCY LAW], after
11 deducting an amount, not to exceed two percent (2%) of collected charges, that shall be retained
12 by the Department to reimburse its direct costs of administering the collection and remittance of
13 prepaid wireless E911 charges.

14 SECTION 6. NO LIABILITY.

15 A. NO LIABILITY REGARDING 911 SERVICE. No provider or seller of prepaid wireless
16 telecommunications service shall be liable for damages to any person resulting from or incurred
17 in connection with the provision of, or failure to provide, 911 or E911 service, or for identifying,
18 or failing to identify, the telephone number, address, location, or name associated with any
19 person or device that is accessing or attempting to access 911 or E911 service.

¹¹ Intention is to piggyback on existing state-level E911 framework, if any.

1 B. NO LIABILITY REGARDING COOPERATION WITH LAW ENFORCEMENT. No
2 provider or seller of prepaid wireless telecommunications service shall be liable for damages to
3 any person resulting from or incurred in connection with the provision of any lawful assistance
4 to any investigative or law enforcement officer of the United States, this or any other state, or
5 any political subdivision of this or any other state, in connection with any lawful investigation or
6 other law enforcement activity by such law enforcement officer.

7 C. INCORPORATION OF POSTPAID 911 LIABILITY PROTECTION. In addition to the
8 protection from liability provided by paragraphs A and B of this Section 6, each provider and
9 seller shall be entitled to the further protection from liability, if any, that is provided to providers
10 and sellers of wireless telecommunications service that is not prepaid wireless
11 telecommunications service pursuant to [CITE APPLICABLE STATE LAW EXCULPATORY
12 PROVISIONS APPLICABLE TO POSTPAID WIRELESS SERVICE].

13 SECTION 7. EXCLUSIVITY OF PREPAID WIRELESS E911 CHARGE.

14 The prepaid wireless E911 charge imposed by this Act shall be the only E911 funding obligation
15 imposed with respect to prepaid wireless telecommunications service in this state, and no tax,
16 fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this
17 state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or
18 consumer with respect to the sale, purchase, use, or provision of prepaid wireless
19 telecommunications service.

20 SECTION 8. EFFECTIVE DATE.

21 This Act shall be effective with respect to retail transactions occurring on and after [_____].