

ASSEMBLY BILL

No. 1458

Introduced by Assembly Member Kelley

February 23, 2001

An act to amend Sections 41003, 41007, 41008, 41009, 41012, 41020, 41021, 41022, 41023, 41024, 41027, 41030, 41031, 41032, 41045, 41046, 41050, 41051, 41052, 41052.1, 41053, 41076, 41077, 41080, 41083, 41088, 41090, 41095, 41101, and 41150 of, to repeal Sections 41014, 41015, 41016, 41017, 41018, 41019, and 41026 of, and to repeal and add Sections 41010, 41011, and 41025 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1458, as introduced, Kelley. Telephone service suppliers: surcharge.

The Emergency Telephone Users Surcharge Law requires a telephone service supplier to collect a surcharge from each telephone service user. Existing law requires the telephone service supplier to make quarterly payments of the collected surcharges to the State Board of Equalization, accompanied by a return. Existing law further specifies that surcharge revenues are, upon appropriation by the Legislature, to be expended for the support of the "911" emergency telephone system.

This bill would revise and recast that law to instead impose a surcharge upon service users for each access line, at an unspecified dollar rate per access line per month. This bill would define access line to mean, as provided, a switched access or radio access line for voice communication.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41003 of the Revenue and Taxation
2 Code is amended to read:

3 41003. “Person” ~~includes~~ *means* an individual, firm,
4 partnership, joint venture, limited liability company, association,
5 cooperative organization, fraternal organization, nonprofit
6 organization, corporation, estate, trust, business or common law
7 trust, receiver, assignee for the benefit of creditors, trustee, or
8 trustee in bankruptcy.

9 ~~“Person” does not include a nonprofit hospital, nonprofit
10 educational organization, or a public agency.~~

11 SEC. 2. Section 41007 of the Revenue and Taxation Code is
12 amended to read:

13 41007. (a) “Service supplier” ~~shall mean~~ *means* any person
14 ~~supplying intrastate telephone communication services pursuant~~
15 ~~to California intrastate tariffs to any service user subscribing or~~
16 ~~contracting to receive payment from any service user for the use~~
17 ~~of an access line in this state.~~

18 ~~(b) On and after January 1, 1988, “service supplier” also~~
19 ~~includes any person supplying intrastate telephone~~
20 ~~communications services for whom the Public Utilities~~
21 ~~Commission, by rule or order, modifies or eliminates the~~
22 ~~requirement for that person to prepare and file California intrastate~~
23 ~~tariffs.~~

24 SEC. 3. Section 41008 of the Revenue and Taxation Code is
25 amended to read:

26 41008. As used in this part, “month” ~~shall mean~~ *means* a
27 calendar month.

28 SEC. 4. Section 41009 of the Revenue and Taxation Code is
29 amended to read:

30 41009. “Service user” means any person ~~using intrastate~~
31 ~~telephone communication services in this state who is required to~~
32 ~~pay a surcharge under the provisions of this part that subscribes or~~
33 ~~contracts with a service supplier to pay for one or more access lines~~
34 ~~for purposes other than resale.~~

35 SEC. 5. Section 41010 of the Revenue and Taxation Code is
36 repealed.

37 ~~41010. “Intrastate telephone communication services”~~
38 ~~means all local or toll telephone services where the point or points~~



1 ~~of origin and the point or points of destination of the service are~~
2 ~~all located in this state.~~

3 SEC. 6. Section 41010 is added to the Revenue and Taxation
4 Code, to read:

5 41010. "Access line" means either of the following:

6 (a) A switched access line that is a voice grade capable
7 telephone service line which connects a service user to the local
8 exchange company's switching office in this state.

9 (b) A radio access line which is a telephone number assigned
10 to or used by a service user for two-way local wireless voice
11 service available to the public for hire from a commercial mobile
12 radio communications service provider in this state. Radio access
13 lines include, but are not limited to, radio-telephone
14 communication lines used in cellular telephone service, personal
15 communications services, network radio access lines, or their
16 functional and competitive equivalent. Radio access lines do not
17 include lines that provide access only to one-way signaling
18 service, such as paging service, or only to communications
19 channels suitable only for data transmission.

20 SEC. 7. Section 41011 of the Revenue and Taxation Code is
21 repealed.

22 ~~41011. "Charges for services" means all charges billed by a~~
23 ~~service supplier to a service user for intrastate telephone~~
24 ~~communications services and shall mean local telephone service~~
25 ~~and include monthly service flat-rate charges for usage, message~~
26 ~~unit charges and shall mean toll charges, and include~~
27 ~~intra-state-wide area telephone service charges. "Charges for~~
28 ~~services" shall not include any tax imposed by the United States~~
29 ~~or by any charter city, charges for service paid by inserting coins~~
30 ~~in a public coin-operated telephone, and shall not apply to amounts~~
31 ~~billed to nonsubscribers for coin shortages. Where a coin-operated~~
32 ~~telephone service is furnished for a guarantee or other periodic~~
33 ~~amount, such amount is subject to the surcharge imposed by this~~
34 ~~part.~~

35 ~~"Charges for services" shall not include charges for intrastate~~
36 ~~toll calls where bills for such calls originate out of California.~~

37 ~~"Charges for services" shall not include charges for any~~
38 ~~nonrecurring, installation, service connection or one-time charge~~
39 ~~for service or directory advertising, and shall not include private~~
40 ~~communication service charges, charges for other than~~



1 ~~communications service, or any charge made by a hotel or motel~~
2 ~~for service rendered in placing calls for its guests regardless of how~~
3 ~~such hotel or motel charge is denominated or characterized by an~~
4 ~~applicable tariff of the Public Utilities Commission of this state.~~

5 ~~“Charges for services” shall not include charges for basic~~
6 ~~exchange line service for lifeline services.~~

7 SEC. 8. Section 41011 is added to the Revenue and Taxation
8 Code, to read:

9 41011. “Prepaid telephone service” means the right to
10 purchase exclusively telecommunications services that must be
11 paid for in advance, that enables the origination of calls using an
12 access number or authorization code, or both, whether manually
13 or electronically dialed, if the remaining amount of units of service
14 that have been prepaid is known by the provider of the prepaid
15 service on a continuous basis.

16 SEC. 9. Section 41012 of the Revenue and Taxation Code is
17 amended to read:

18 41012. “Public telephone” means any coin-operated
19 telephone ~~provided by the serving telephone company~~ accessible
20 to the public.

21 SEC. 10. Section 41014 of the Revenue and Taxation Code is
22 repealed.

23 ~~41014. Notwithstanding any other provision of law to the~~
24 ~~contrary, persons subject to the jurisdiction of the Public Utilities~~
25 ~~Commission of the State of California need not obtain an~~
26 ~~authorization from the commission to comply with the provisions~~
27 ~~of this part, nor shall such persons obtain any such authorization~~
28 ~~on behalf of any hotel or motel, in order that such entities be~~
29 ~~permitted to collect and recoup the surcharge imposed hereby~~
30 ~~upon any charge for services measured by time units or other time~~
31 ~~measurement, from their guests, in addition to any applicable tariff~~
32 ~~rates.~~

33 SEC. 11. Section 41015 of the Revenue and Taxation Code is
34 repealed.

35 ~~41015. “Local telephone service” shall mean both of the~~
36 ~~following:~~

37 ~~(a) The access to a local telephone system, and the privilege of~~
38 ~~telephonic quality communication with substantially all persons~~
39 ~~having telephone or radiotelephone stations constituting a part of~~
40 ~~the local telephone system.~~



1 ~~(b) Any facility or service provided in connection with a~~
2 ~~service described in subdivision (a).~~

3 ~~The term “local telephone service” does not include any service~~
4 ~~which is a “toll telephone service” or a “private communication~~
5 ~~service.”~~

6 SEC. 12. Section 41016 of the Revenue and Taxation Code is
7 repealed.

8 ~~41016. —“Toll telephone service” shall mean~~

9 ~~(a) A telephonic quality communication for which (1) there is~~
10 ~~a toll charge which varies in amount with the distance and elapsed~~
11 ~~transmission time of each individual communication and (2) the~~
12 ~~charge is paid within the United States, and~~

13 ~~(b) A service which entitles the subscriber, upon payment of a~~
14 ~~periodic charge (determined as a flat amount or upon the basis of~~
15 ~~total elapsed transmission time), to the privilege of an unlimited~~
16 ~~number of telephonic communications to or from all or a~~
17 ~~substantial portion of the persons having telephone or~~
18 ~~radiotelephone stations in a specified area which is outside the~~
19 ~~local telephone system area in which the station provided with this~~
20 ~~service is located.~~

21 SEC. 13. Section 41017 of the Revenue and Taxation Code is
22 repealed.

23 ~~41017. —“Private communication service” shall mean~~

24 ~~(a) The communication service furnished to a subscriber which~~
25 ~~entitles the subscriber —~~

26 ~~(1) To exclusive or priority use of any communication channel~~
27 ~~or groups of channels, or~~

28 ~~(2) To the use of an intercommunication system for the~~
29 ~~subscriber’s stations, regardless of whether such channel, groups~~
30 ~~of channels, or intercommunication system may be connected~~
31 ~~through switching with a service described in Sections 41015 and~~
32 ~~41016,~~

33 ~~(b) Switching capacity, extension lines and stations, or other~~
34 ~~associated services which are provided in connection with, and are~~
35 ~~necessary or unique to the use of channels or systems described in~~
36 ~~subdivision (a), and~~

37 ~~(c) The channel mileage which connects a telephone station~~
38 ~~located outside a local telephone system area with a central office~~
39 ~~in such local telephone system, except that such term shall not~~



1 ~~include any communication service unless a separate charge is~~
2 ~~made for such service.~~

3 SEC. 14. Section 41018 of the Revenue and Taxation Code is
4 repealed.

5 ~~41018. “Communications equipment company” shall mean~~
6 ~~a manufacturer or vendor that sells or leases communications~~
7 ~~equipment.~~

8 SEC. 15. Section 41019 of the Revenue and Taxation Code is
9 repealed.

10 ~~41019. No surcharge shall be imposed on charges for any~~
11 ~~types of service or equipment furnished by a service supplier~~
12 ~~subject to state or federal public utility regulation during any~~
13 ~~period in which the same or similar services or equipment are also~~
14 ~~available for sale or lease from persons not subject to state or~~
15 ~~federal public utility regulation.~~

16 SEC. 16. Section 41020 of the Revenue and Taxation Code is
17 amended to read:

18 41020. A surcharge is hereby imposed on ~~amounts paid by~~
19 ~~every person in the state for intrastate telephone communication~~
20 ~~service in this state commencing on July 1, 1977~~ *each service user*
21 *for each access line for each month or part thereof, for which a*
22 *service user subscribes or contracts with the service supplier.*

23 The surcharge imposed shall be ~~at the rate of one half of 1~~
24 ~~percent of the charges made for such services to and including~~
25 ~~November 1, 1982, such a rate as at least ____ dollars (\$__)~~ *per*
26 *access line per month, but no more than ____ dollars (\$__)* *per*
27 *access line per month to and including October 31, 2001, and*
28 *thereafter shall be fixed pursuant to Article 2 of the this chapter*
29 ~~thereafter.~~

30 The surcharge shall be paid by the service user as hereinafter
31 provided.

32 SEC. 17. Section 41021 of the Revenue and Taxation Code is
33 amended to read:

34 41021. Every service supplier shall collect the surcharge *on a*
35 *per access line per month basis and is authorized to collect the*
36 *amount of the surcharge* from each service user at the time it
37 collects its billings from the service user, ~~provided, the~~. *The* duty
38 to collect the surcharge from a service user shall commence with
39 the beginning of the first regular billing period applicable to that
40 person which starts on or after the operative date of the surcharge



1 imposed by this part. ~~If the stations or lines of more than one~~
2 ~~service supplier are utilized in furnishing the telephone~~
3 ~~communications services to the service user, the service supplier~~
4 ~~that bills the customer shall collect the surcharge from the~~
5 ~~customer.~~

6 Only one payment *per month* under this part shall be required
7 with respect to the surcharge on any service, ~~notwithstanding that~~
8 ~~the lines or stations of one or more service suppliers are used in~~
9 ~~furnishing such service access line.~~

10 SEC. 18. Section 41022 of the Revenue and Taxation Code is
11 amended to read:

12 41022. The surcharge required to be collected by the service
13 supplier shall be added to and stated separately in its billings to the
14 service user. *The surcharge shall be separately identified as “911*
15 *Surcharge” and may not exceed the per access line amount fixed*
16 *in Section 41020.*

17 SEC. 19. Section 41023 of the Revenue and Taxation Code is
18 amended to read:

19 41023. The surcharge required to be collected by the service
20 supplier, and any amount unreturned to the service user which is
21 not a surcharge but was collected from the service user as
22 representing a surcharge, constitute debts owed by the service
23 supplier to this state, *except as provided in Section 41025.*

24 A service supplier that has collected any amount of surcharge
25 in excess of the amount of surcharge imposed by this part and
26 actually due from a service user, may refund ~~such that~~ *that* amount to
27 the service user, even though ~~such the~~ *the* surcharge amount has
28 already been paid over to the board and no corresponding credit or
29 refund has yet been secured. ~~Any service supplier making a refund~~
30 ~~of any charge to a service user upon which surcharge is collected~~
31 ~~under this part from the service user may repay therewith the~~
32 ~~amount of the surcharge paid.~~ The service supplier may claim
33 credit for ~~such any~~ *any* overpayment *refund* against the amount of
34 surcharge imposed by this part which is due upon any other
35 ~~quarterly~~ return, providing ~~such the~~ *the* credit is claimed in a return
36 dated no later than three years from the date of overpayment.

37 SEC. 20. Section 41024 of the Revenue and Taxation Code is
38 amended to read:

39 41024. Every service user in this state is liable for the
40 surcharge until it has been paid to this state, except that payment



1 to a service supplier registered under this part is sufficient to
2 relieve the user from further liability for the tax.

3 Any surcharge collected from a service user which has not been
4 remitted to the board shall be deemed a debt owed to the State of
5 California by the person required to collect and remit ~~such~~ *the*
6 surcharge. ~~Nothing in this part shall impose any obligation upon~~
7 ~~a service supplier to take any legal action to enforce the collection~~
8 ~~of the utility users surcharge imposed by this part. The service~~
9 ~~supplier shall provide the board with amounts uncollected which~~
10 ~~total three dollars (\$3) or more on a cumulative basis with respect~~
11 ~~to a single service user along with the names, addresses and~~
12 ~~reasons of the service users refusing to pay the surcharge imposed~~
13 ~~by this part.~~

14 SEC. 21. Section 41025 of the Revenue and Taxation Code is
15 repealed.

16 ~~41025. If a bill is rendered to persons using intrastate~~
17 ~~telephone services the amount on which the surcharge with respect~~
18 ~~to such services shall be based shall be the sum of all charges for~~
19 ~~such services included in the bill; except that if the person who~~
20 ~~renders the bill groups individual items for purposes of rendering~~
21 ~~the bill and computing the surcharge then the amount on which the~~
22 ~~surcharge with respect to each such group shall be based, shall be~~
23 ~~the sum of all items within that group, and the surcharge on the~~
24 ~~remaining items not included in any such group, shall be based on~~
25 ~~the charge for each item separately.~~

26 SEC. 22. Section 41025 is added to the Revenue and Taxation
27 Code, to read:

28 41025. A service supplier is relieved from the obligation to
29 collect and remit the surcharge in so far as the access lines on which
30 the surcharge is imposed are supplied to service user accounts that
31 have been found to be worthless, and that have been charged off
32 in accordance with generally accepted accounting principles.

33 SEC. 23. Section 41026 of the Revenue and Taxation Code is
34 repealed.

35 ~~41026. In the payment of the surcharge imposed by this part,~~
36 ~~a fractional part of a cent shall be disregarded unless it amounts to~~
37 ~~one half or more, in which case it shall be increased to one cent.~~

38 SEC. 24. Section 41027 of the Revenue and Taxation Code is
39 amended to read:



1 41027. Nothing in this part shall be construed as imposing a
 2 surcharge upon ~~amounts paid by any person~~ *access lines* when
 3 imposition of ~~such~~ *that* surcharge would be in violation of the
 4 Constitution of the United States, the United States Code, or the
 5 laws of the State of California, ~~nor upon toll charges used in the~~
 6 ~~collection and dissemination of news for the public press or on~~
 7 ~~charges for wide area telephone service used by common carriers~~
 8 ~~in the conduct of their business.~~

9 SEC. 25. Section 41030 of the Revenue and Taxation Code is
 10 amended to read:

11 41030. (a) The Department of General Services shall
 12 determine annually, on or before September 1, a surcharge ~~rate~~ that
 13 it estimates will produce sufficient revenue to fund the current
 14 fiscal year's 911 costs. The surcharge ~~rate~~ shall be determined by
 15 dividing the costs (including incremental costs) the Department of
 16 General Services estimates for the current fiscal year of 911 plans
 17 approved pursuant to Section 53115 of the Government Code, less
 18 the available balance in the State Emergency Telephone Number
 19 Account in the General Fund, by its estimate of the ~~charges for~~
 20 ~~intrastate telephone communications services~~ *number of access*
 21 *lines* to which the surcharge will apply for the period of November
 22 1 of the current calendar year to October 31 of the next succeeding
 23 calendar year, but in no event shall ~~such~~ *the* surcharge ~~rate~~ in any
 24 year be greater than ~~three-quarters of 1 percent~~ ____ dollars (\$__)
 25 nor less than ~~one-half of 1 percent~~ ____ dollars (\$__).

26 (b) *Each service supplier shall indicate on its returns filed with*
 27 *the board the number of access lines upon which the surcharge was*
 28 *imposed during the reporting period. The board shall, no later than*
 29 *July 15, notify the Department of General Services of the number*
 30 *of access lines subject to the surcharge per reporting period, based*
 31 *on the available information taken from the service supplier*
 32 *returns.*

33 SEC. 26. Section 41031 of the Revenue and Taxation Code is
 34 amended to read:

35 41031. The Department of General Services shall make its
 36 determination of ~~such~~ *the amount of the* surcharge ~~rate~~ each year
 37 no later than September 1 and shall notify the board of the new ~~rate~~
 38 *amount*, which shall be fixed by the board to be effective ~~with~~
 39 ~~respect to charges made for intrastate telephone communication~~



1 ~~services on or after November 1 of each year with respect to access~~
2 ~~lines for which a service user has subscribed or contracted.~~

3 SEC. 27. Section 41032 of the Revenue and Taxation Code is
4 amended to read:

5 41032. Immediately upon notification by the Department of
6 General Services and fixing the surcharge ~~rate~~, the board shall each
7 year no later than September 15 publish in its minutes the new ~~rate~~
8 *surcharge*, and it shall notify by mail every service supplier
9 registered with it of the new ~~rate~~ *surcharge*.

10 SEC. 28. Section 41045 of the Revenue and Taxation Code is
11 amended to read:

12 41045. The surcharges imposed by this part shall be collected
13 insofar as practicable at the same time as, and along with, the
14 charges made in accordance with regular billing practice of the
15 service supplier.

16 ~~The charges for services determined by or stated on a billing of~~
17 ~~a service supplier in accordance with its business practices and~~
18 ~~accounting records to have been supplied to a service user during~~
19 ~~any calendar month or billing period of the service supplier shall~~
20 ~~be presumed to be correct. The presumption may be rebutted by~~
21 ~~evidence which establishes that the charges for services were other~~
22 ~~than such amount.~~

23 SEC. 29. Section 41046 of the Revenue and Taxation Code is
24 amended to read:

25 41046. There are exempt from the surcharge ~~charges for~~
26 ~~intrastate telephone communication services which are exempt~~
27 ~~from the federal communication services tax pursuant to Section~~
28 ~~4253 of the Internal Revenue Code of 1954. the following access~~
29 ~~lines and nonaccess-line services:~~

30 (a) *Those lines connected to public telephones.*

31 (b) *Those lines supplying lifeline service.*

32 (c) *Those lines for which a nonprofit hospital or nonprofit*
33 *educational organization, exempt pursuant to Section 501(a) of*
34 *the Internal Revenue Code, has subscribed.*

35 (d) *Those lines for which a public agency has subscribed.*

36 (e) *Prepaid telephone service.*

37 SEC. 30. Section 41050 of the Revenue and Taxation Code is
38 amended to read:

39 41050. The surcharge imposed by Section 41020 ~~attaches at~~
40 ~~the time the intrastate telephone communication services are billed~~



1 ~~by the service supplier to the service user and shall be paid by the~~
2 ~~service user when paying for such services is imposed as to each~~
3 ~~access line for which a service user has subscribed or contracted~~
4 ~~in any calendar month, whether or not the subscription or contract~~
5 ~~covered all or part of any month. If a service user subscribes for~~
6 ~~service with one service supplier for a portion of a month and then~~
7 ~~subscribes for service with another service supplier for the~~
8 ~~remainder of the same month, the service user is liable for the~~
9 ~~surcharge as to each of the access lines for which the service user~~
10 ~~has subscribed or contracted with the service supplier.~~

11 SEC. 31. Section 41051 of the Revenue and Taxation Code is
12 amended to read:

13 41051. The surcharges imposed by this part and the amounts
14 thereof required to be collected are due monthly, and the amount
15 of surcharge *due or* collected in one calendar month by the service
16 supplier shall be remitted to the board on or before the last day of
17 the second month following the month in which the surcharges
18 were collected. ~~However, the fourth quarter collection for the 1996~~
19 ~~calendar year shall be remitted no later than February 15, 1997.~~

20 SEC. 32. Section 41052 of the Revenue and Taxation Code is
21 amended to read:

22 41052. On or before the last day of the second month
23 following each month in which the surcharges were collected, a
24 return for that month shall be filed with the board in such form as
25 the board may prescribe.

26 ~~The service supplier shall include a list of any service users who~~
27 ~~have refused to pay a cumulative total of three dollars (\$3) or more~~
28 ~~of the surcharge imposed by this part with each return filing.~~

29 SEC. 33. Section 41052.1 of the Revenue and Taxation Code
30 is amended to read:

31 41052.1. ~~If~~ *Notwithstanding Section 45051, if* the board
32 deems it necessary in order to ensure payment or to facilitate the
33 collection by the state of the amount of ~~taxes~~ *surcharge due*, the
34 board may require returns and payment of the amount of
35 surcharges *due* for a calendar quarter or calendar year period. *The*
36 *return is due on or before the last day of the second month*
37 *following the reporting period in which the surcharge was*
38 *imposed.*

39 SEC. 34. Section 41053 of the Revenue and Taxation Code is
40 amended to read:



1 41053. The person required to file the return shall deliver the
2 return together with a remittance of the amount of the surcharge
3 payable to ~~the office of the board.~~

4 SEC. 35. Section 41076 of the Revenue and Taxation Code is
5 amended to read:

6 41076. Except in the case of fraud, intent to evade this part or
7 authorized rules and regulations, or failure to make a return, every
8 notice of a deficiency determination shall be mailed within three
9 years after the last day of the second calendar month following the
10 ~~month~~ *reporting period* for which the amount is proposed to be
11 determined or within three years after the return is filed, whichever
12 period expires the later. In the case of failure to make a return,
13 every notice of determination shall be mailed within eight years
14 after the last day of the second calendar month following the
15 ~~month~~ *reporting period* for which the amount is proposed to be
16 determined.

17 SEC. 36. Section 41077 of the Revenue and Taxation Code is
18 amended to read:

19 41077. In the case of a deficiency arising under this part
20 during the lifetime of a decedent, a notice of deficiency
21 determination shall be mailed within four months after written
22 request therefor, in the form required by the board, by the fiduciary
23 of the estate or trust or by any other person liable for the ~~tax~~
24 *surcharge* or any portion thereof.

25 SEC. 37. Section 41080 of the Revenue and Taxation Code is
26 amended to read:

27 41080. If any person fails to make a return, the board shall
28 make an estimate of the ~~amount of the charges for services by the~~
29 ~~person, or, as the case may be of the amount of charges for services~~
30 ~~received by the persons, in this state~~ *number of access lines* which
31 are subject to the surcharge. The estimate shall be made for the
32 period or periods in respect to which the person failed to make a
33 return and shall be based upon any information which is in the
34 board's possession or may come into its possession. Upon the basis
35 of this estimate the board shall compute and determine the amount
36 required to be paid to the state, adding to the sum thus arrived at
37 a penalty equal to 10 percent thereof, ~~or ten dollars (\$10),~~
38 ~~whichever is greater.~~ One or more determinations may be made for
39 one or for more than one period.



1 SEC. 38. Section 41083 of the Revenue and Taxation Code is
2 amended to read:

3 41083. If the failure of any person to file a return is due to
4 fraud or an intent to evade this part or rules and regulations, a
5 penalty of 25 percent of the amount required to be paid by the
6 person, exclusive of penalties, ~~or twenty-five dollars (\$25),~~
7 ~~whichever is greater~~, shall be added thereto in addition to the
8 penalty provided in Section 41080.

9 SEC. 39. Section 41088 of the Revenue and Taxation Code is
10 amended to read:

11 41088. The board may decrease or increase the amount of the
12 determination before it becomes final, but the amount may be
13 increased only if a claim for the increase is asserted by the board
14 at or before the hearing. Unless the penalty imposed by Section
15 41074 or Section 41080 applies to the amount of the determination
16 as originally made or as increased, the claim for increase shall be
17 asserted within eight years after the last day of the second calendar
18 month following the ~~month~~ *reporting period* for which the
19 increase is asserted.

20 SEC. 40. Section 41090 of the Revenue and Taxation Code is
21 amended to read:

22 41090. All determinations made by the board under Article 3
23 or 4 of this chapter are due and payable at the time they become
24 final. If they are not paid when due and payable, a penalty of 10
25 percent of the amount of the determination, exclusive of interest
26 and penalties ~~or ten dollars (\$10), whichever is greater~~, shall be
27 added thereto.

28 SEC. 41. Section 41095 of the Revenue and Taxation Code is
29 amended to read:

30 41095. (a) Any person who fails to pay any surcharge to the
31 state or any amount of surcharge required to be collected and paid
32 to the state, except amounts of determinations made by the board
33 under Article 3 (commencing with Section 41070) or Article 4
34 (commencing with Section 41080), within the time required shall
35 pay a penalty of 10 percent of the surcharge or amount of the
36 surcharge ~~or ten dollars (\$10), whichever is greater~~, in addition to
37 the surcharge or amount of surcharge, plus interest at the modified
38 adjusted rate per month, or fraction thereof, established pursuant
39 to Section 6591.5, from the date on which the surcharge or the



1 amount of surcharge required to be collected became due and
2 payable to the state until the date of payment.

3 (b) Any person who fails to file a return in accordance with the
4 due date set forth in Section 41052 or the due date established by
5 the board in accordance with Section 41052.1, shall pay a penalty
6 of 10 percent of the amount of the surcharge with respect to the
7 period for which the return is required, or ten dollars (\$10),
8 whichever is greater.

9 (c) The penalties imposed by this section shall be limited to
10 either 10 percent of the surcharge for which the return is required
11 for any one return, or ten dollars (\$10), whichever is greater.

12 SEC. 42. Section 41101 of the Revenue and Taxation Code is
13 amended to read:

14 41101. No refund shall be approved by the board after three
15 years from the last day of the second month following the close of
16 the ~~month~~ *reporting period* for which the overpayment was made,
17 or, with respect to determinations made under Article 3 or 4 of
18 Chapter 4 of this part, after six months from the date the
19 determinations become final, or after six months from the date of
20 overpayment, whichever period expires the later, unless a claim
21 therefor is filed with the board within that period. No credit shall
22 be approved by the board after the expiration of that period unless
23 a claim for credit is filed with the board within that period.

24 SEC. 43. Section 41150 of the Revenue and Taxation Code is
25 amended to read:

26 41150. The Legislature hereby declares and finds that to
27 enable public agencies to implement “911” emergency phone
28 systems required by the provisions of Chapter 1005 of the 1972
29 Regular Session (Article 6 (commencing with Section 53100) of
30 Chapter 1 of Part 1 of Division 2 of Title 5 of the Government
31 Code) it is necessary that a surcharge be imposed upon ~~amounts~~
32 ~~paid by every person in the state for intrastate telephone~~
33 ~~communication services~~ *each access line* in this state. This bill
34 will provide funding for basic 911, basic 911 (including telephone
35 central office identification), 911 with selective routing, or a
36 combination of the above. These services will include incoming
37 911 lines/trunks, 911 answering positions including common



- 1 control equipment, transfer lines and transfer positions. In
- 2 addition, this part will provide funding for incremental costs.

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