

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1050

Introduced by Assembly Member Ma

February 18, 2011

An act to ~~amend Section 32390 of~~ *add Section 41127.9 to the Revenue and Taxation Code, relating to taxation telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1050, as amended, Ma. ~~State Board of Equalization: collection cost recovery fee.~~ *Telecommunications: taxes and fees.*

The existing Emergency Telephone Users Surcharge Act generally imposes a surcharge on amounts paid by every person in the state for intrastate telephone service to provide revenues sufficient to fund "911" emergency telephone system costs. Surcharge amounts are paid to the State Board of Equalization on a monthly basis by the telephone service supplier and are deposited into the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund, to be expended for limited purposes, including to pay the Department of General Services for its costs in administration of the "911" emergency telephone number system.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and is authorized to fix just and reasonable rates and charges for services provided by those public utilities. Existing law establishes the Public Utilities Commission Utilities Reimbursement Account and authorizes the commission to annually determine a fee to be paid by every public utility providing service directly to customers or subscribers and subject to the jurisdiction of the commission, except for a railroad corporation.

The commission is required to establish the fee, with the approval of the Department of Finance, to produce a total amount equal to that amount established in the authorized commission budget for the same year, and an appropriate reserve to regulate public utilities, less specified sources of funding. Existing law establishes the state's telecommunications universal service programs and authorizes the commission to impose charges for the purpose of funding those programs.

This bill would require the State Board of Equalization, upon appropriation for that purpose, to convene a working group to develop recommendations for an equitable and uniform method of collecting state and locally authorized communications taxes, fees, and surcharges from prepaid communications end-use consumers. The bill would require that the working group include stakeholder representatives, including the commission, the California Technology Agency, local government entities, law enforcement agencies, mobile telephony service providers, retailers, and consumer groups.

~~Existing law allows the State Board of Equalization to collect a charge to recover the costs of collecting various taxes and fees, including the tax on alcoholic beverages.~~

~~This bill would make a technical, nonsubstantive change in this provision.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Maintaining effective and efficient telecommunications*
- 4 *services, 911 emergency systems, telecommunications-related*
- 5 *public policy programs to promote universal service, and various*
- 6 *local programs across the state benefits all citizens.*
- 7 (b) *Under existing law, communications taxes, fees, and*
- 8 *surcharges, including the Emergency Telephone Users Surcharge*
- 9 *Act, telecommunications universal service surcharges, local 911*
- 10 *emergency system surcharges, and utility user taxes are important*
- 11 *funding mechanisms to assist state and local governments with*
- 12 *the deployment of a variety of important services and programs*
- 13 *to the citizens of this state.*

1 (c) Providers of communications services are required to collect
2 and remit communications taxes, fees, and surcharges on various
3 types of communication service revenues, as provided by existing
4 state or local law.

5 (d) Under existing law, there is a method for collecting
6 communications taxes, fees, and surcharges from postpaid
7 communications end-use consumers. However, there is no method
8 for collecting communications taxes, fees, and surcharges from
9 prepaid end-use consumers.

10 (e) Consumers purchase prepaid communications services at
11 a wide variety of retail locations and other distribution channels,
12 as well as through service providers.

13 (f) Prepaid communications services are an important and
14 growing segment of the communications industry.

15 (g) To ensure equitable contributions from end-use consumers
16 of postpaid and prepaid communications services, there should
17 be standardization with respect to the method used to collect
18 communications taxes, fees, and surcharges from end-use
19 consumers of prepaid communications services.

20 SEC. 2. Section 41127.9 is added to the Revenue and Taxation
21 Code, to read:

22 41127.9. (a) Upon an appropriation being made for that
23 purpose, the State Board of Equalization shall convene a working
24 group to develop recommendations for an equitable and uniform
25 method of collecting state and locally authorized communications
26 taxes, fees, and surcharges from prepaid communications end-use
27 consumers. The working group shall include stakeholder
28 representatives, including but not limited to, the Public Utilities
29 Commission, the California Technology Agency, local government
30 entities, law enforcement agencies, mobile telephony service
31 providers, retailers, and consumer groups.

32 (b) For the purposes of this section, “communications taxes,
33 fees, and surcharges” means any and all state and local-authorized
34 taxes, fees, and surcharges on communications services, including
35 but not limited to:

36 (1) Surcharges authorized pursuant to the Emergency Telephone
37 Users Surcharge Act (Part 20 (commencing with Section 41001)).

38 (2) Charges authorized by the Public Utilities Commission,
39 including:

1 (A) *The California High Cost Fund-A program surcharge*
2 *(Section 275.6, Public Utilities Code).*

3 (B) *The California High Cost Fund-B program surcharge*
4 *(Section 739.3, Public Utilities Code).*

5 (C) *The Deaf and Disabled Telecommunications Program*
6 *surcharge (Section 2881 and following, Public Utilities Code).*

7 (D) *The California Teleconnect Administrative Committee*
8 *program surcharge (Section 280, Public Utilities Code).*

9 (E) *The California Advanced Services Fund program surcharge*
10 *(Section 281, Public Utilities Code).*

11 (F) *The Moore Universal Telephone Service Act (Article 8*
12 *(commencing with Section 871) of Chapter 4 of Part 1 of Division*
13 *1 of the Public Utilities Code).*

14 (G) *Public Utilities Commission reimbursement fees collected*
15 *pursuant to Chapter 2.5 (commencing with Section 401) of Part*
16 *1 of Division 1 of the Public Utilities Code.*

17 (3) *Local 911 or access line taxes, fees, or surcharges.*

18 (4) *Local utility user taxes.*

19 SECTION 1. ~~Section 32390 of the Revenue and Taxation Code~~
20 ~~is amended to read:~~

21 ~~32390. (a) A collection cost recovery fee shall be imposed on~~
22 ~~a person that fails to pay an amount of tax, interest, penalty, or~~
23 ~~other amount due and payable under this part. The collection cost~~
24 ~~recovery fee shall be in an amount equal to the board's costs for~~
25 ~~collection, as reasonably determined by the board. The collection~~
26 ~~cost recovery fee shall be imposed only if the board has mailed its~~
27 ~~demand notice, to that person for payment, that advises that~~
28 ~~continued failure to pay the amount due may result in collection~~
29 ~~action, including the imposition of a collection cost recovery fee.~~

30 ~~(b) Interest shall not accrue with respect to the collection cost~~
31 ~~recovery fee provided by this section.~~

32 ~~(c) The collection cost recovery fee imposed pursuant to this~~
33 ~~section shall be collected in the same manner as the collection of~~
34 ~~any other tax imposed by this part.~~

35 ~~(d) (1) If the board finds that a person's failure to pay any~~
36 ~~amount under this part is due to reasonable cause and circumstances~~
37 ~~beyond the person's control, and occurred notwithstanding the~~
38 ~~exercise of ordinary care and the absence of willful neglect, the~~
39 ~~person shall be relieved of the collection cost recovery fee provided~~
40 ~~by this section.~~

1 ~~(2) Any person seeking to be relieved of the collection cost~~
2 ~~recovery fee shall file with the board a statement under penalty of~~
3 ~~perjury setting forth the facts upon which the person bases the~~
4 ~~claim for relief.~~

5 ~~(e) Subdivision (a) shall be operative with respect to a demand~~
6 ~~notice for payment which is mailed on or after January 1, 2011.~~

7 ~~(f) Collection cost recovery fee revenues shall be deposited in~~
8 ~~the same manner as revenues derived from any other tax imposed~~
9 ~~by this part.~~

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