

ASSEMBLY BILL

No. 300

Introduced by Assembly Member Perea

February 12, 2013

An act to amend Sections 224.4 and 431 of, and to add Section 316 to, the Public Utilities Code, and to amend Sections 41020 and 41030 of, to add Part 21 (commencing with Section 42000) to, and to add Part 21.1 (commencing with Section 42100) to, Division 2, of the Revenue and Taxation Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as introduced, Perea. Telecommunications: prepaid mobile telephony services: state surcharge and fees: local charges collection.

(1) 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. Amounts are determined annually by the Department of Technology, and upon collection 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 (PUC) 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 PUC 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 PUC, except for a railroad corporation. The PUC 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 PUC 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 PUC to impose charges for the purpose of funding those programs. Pursuant to this authority, the PUC has established 6 end-user surcharges to fund 6 universal service programs.

This bill would enact the Prepaid Mobile Telephony Service Surcharge and Collection Act. The bill would establish a prepaid MTS surcharge, as defined, based upon a percentage of the sales price of each retail transaction that occurs in this state for prepaid mobile telephony services, as defined. The prepaid MTS surcharge would include the emergency telephone users surcharge, as defined, and PUC surcharges, as defined. The bill would require a seller, as defined, to collect the prepaid MTS surcharge, as provided, from a prepaid consumer, as defined, and remit the amounts collected to the State Board of Equalization pursuant to the Fee Collection Procedures Law. The bill would require the board, after deducting its administrative expenses, to deposit the amounts collected for the emergency telephone users surcharge into the Prepaid MTS 911 Account and to deposit the amounts collected for PUC surcharges into the Prepaid MTS PUC Account in the Prepaid Mobile Telephony Services Surcharge Fund, which the bill would establish in the State Treasury. The bill would require the PUC to annually compute the PUC's reimbursement fee and 6 universal service program fees, to post notice of those fees on its Internet Web site and to notify the State Board of Equalization of the amounts, which would be adjusted, as specified, and together would be the PUC surcharges. The bill would require the Department of Technology to annually compute, as specified, the intrastate portion of the 911 surcharge to be collected on prepaid mobile telephony services to post notice of those charges and to notify the State Board of Equalization of the amount, which would be the emergency telephone users surcharge. Local charges would be computed pursuant to the Local Prepaid Mobile Telephony Services Collection Act, discussed below.

Existing law defines mobile telephony services for purposes of the Public Utilities Code.

This bill would revise that definition and incorporate that definition for purposes of the Prepaid Mobile Telephony Service Surcharge and Collection Act.

(2) Existing law generally provides that the legislative body of any charter city may make and enforce all ordinances and regulations with respect to municipal affairs, as provided, including, but not limited to, a utility user tax in that municipality. Existing law generally provides that the legislative body of a city may levy any tax that may be levied by a charter city. Existing law further provides that the board of supervisors of any county may levy a utility user tax on the consumption of, among other things, telephone service, in the unincorporated area of the county.

This bill would, on and after January 1, 2015, and before _____, suspend the authority of a city, county, or city and county, including any charter city, county, or city and county, to impose a utility user tax on the consumption of prepaid communications service at the rate specified in an ordinance adopted pursuant to existing law, and would instead state that the intent of the Legislature is to establish a tiered method for collection of the utility user rate tax. In addition, the bill would, on or after January 1, 2015, and before _____, suspend the authority of a city, county, or city and county, including any charter city, county, or city and county, to impose a charge, that applies to prepaid mobile telephony service, on access to communication services or access to local “911” emergency telephone systems, in the city, county, or city and county at the rate as specified in an ordinance adopted pursuant to existing law, and would instead require the charge rate to be applied during that period under any ordinance to be at specified rates, to be collected and administered as prescribed in the Prepaid Mobile Telephony Services Surcharge and Collection Act. This bill would specify that a change in a utility user tax rate or access charge rate resulting from either the rate limitations or the end of the period of on and after January 1, 2015, and before _____ is not subject to voter approval under either statute or Article XIII C of the California Constitution. This bill would require these local charges imposed by a city, county, or a city and county be administered and collected by the State Board of Equalization and transmitted to the city, county, or a city and county.

(3) The Fee Collection Procedures Law makes a violation of any provision of the law, or of certain requirements imposed by the board pursuant to the law, a crime.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 224.4 of the Public Utilities Code is
2 amended to read:

3 224.4. (a) “Mobile data service” means the delivery of
4 nonvoice information *over a radio band licensed by the Federal*
5 *Communications Commission*, to a mobile device and includes
6 nonvoice information communicated to a mobile telephony services
7 handset, nonvoice information communicated to handheld personal
8 digital assistant (PDA) devices and laptop computers, and mobile
9 paging service carriers offering services on pagers and two-way
10 messaging devices. “*Mobile data service*” includes mobile
11 *broadband service offering connectivity over a radio band licensed*
12 *by the Federal Communications Commission*. Unless specified to
13 *the contrary*, “mobile data service” does not include nonvoice
14 information communicated through a wireless local area network
15 operating in the unlicensed radio bands, commonly known as a
16 “Wi-Fi” network.

17 (b) “Mobile paging service” means the transmission of coded
18 radio signals *over a radio band licensed by the Federal*
19 *Communications Commission*, for the purpose of activating specific
20 small radio receivers designed to be carried by a person and to
21 give an aural, visual, or tactile indication when activated.

1 (c) “Mobile satellite telephone service” means voice
2 communication to end users over a mobile satellite service
3 involving the provision of commercial mobile radio service,
4 pursuant to Parts 20 and 25 of Title 47 of the Code of Federal
5 Regulations.

6 (d) “Mobile telephony service” means commercially available
7 interconnected mobile phone services that provide *voice*
8 *communication* access to the public switched telephone network
9 (PSTN) ~~via~~ *by way of* mobile communication devices employing
10 radiowave technology to transmit calls, including cellular
11 radiotelephone, broadband Personal Communications Services
12 (PCS), ~~and~~ digital Specialized Mobile Radio (SMR), *or another*
13 *radio band licensed by the Federal Communications Commission.*
14 “Mobile telephony services” does not include mobile satellite
15 telephone services or mobile data services used exclusively for
16 the delivery of nonvoice information to a mobile device.

17 SEC. 2. Section 316 is added to the Public Utilities Code, to
18 read:

19 316. (a) The commission shall annually, on or before October
20 1, of each year, commencing October 1, 2014, compute a
21 reimbursement fee as a percentage of the sales price for prepaid
22 mobile telephony services, to be effective on January 1 of the
23 following year and to be collected and remitted pursuant to the
24 Prepaid Mobile Telephony Surcharge and Collection Act (Part 21
25 (commencing with Section 42000) of Division 2 of the Revenue
26 and Taxation Code). On or before October 15 of each year,
27 commencing October 15, 2014, the commission shall post notice
28 of the reimbursement fee on its Internet Web site and notify the
29 State Board of Equalization of this information.

30 (b) The commission shall annually, on or before October 1 of
31 each year, commencing October 1, 2014, compute the cumulative
32 of the telecommunications universal service surcharges as a
33 percentage of the sales price for prepaid mobile telephony services,
34 to be effective on January 1 of the following year and to be
35 collected and remitted pursuant to the Prepaid Mobile Telephony
36 Surcharge and Collection Act (Part 21 (commencing with Section
37 42000) of Division 2 of the Revenue and Taxation Code). On or
38 before October 15 of each year, commencing October 15, 2014,
39 the commission shall post notice of the cumulative surcharge on

1 its Internet Web site and notify the State Board of Equalization of
2 this information.

3 (c) (1) Nothing in this section restricts the commission's
4 authority to adjust reimbursement fees or universal service fees or
5 requires that they only be adjusted once annually.

6 (2) In annually computing reimbursement fees and universal
7 service fees to be collected and remitted to the commission
8 pursuant to this section, the commission shall adjust the fees to
9 account for any past overcollection of fees from prepaid mobile
10 telephony service customers resulting from a reduction in fees
11 made subsequent to December 31 of the previous year.

12 (3) In annually computing reimbursement fees and universal
13 service fees to be collected and remitted to the commission
14 pursuant to this section, the commission may adjust the fees to
15 account for any past undercollection of fees from prepaid mobile
16 telephony service customers resulting from an increase in fees
17 made subsequent to December 31 of the previous year.

18 (4) If both upward and downward adjustments are made to
19 reimbursement fees and universal service fees subsequent to
20 December 31, the commission may adjust how collections are
21 deposited into the reimbursement and universal service accounts
22 so that overcollections or undercollections are minimized.

23 (5) It is the intent of the Legislature that reimbursement fees
24 and universal service fees be applied, as much as possible, in a
25 competitively neutral manner that does not favor either prepaid or
26 postpaid payment for mobile telephony services, and that, over
27 time, collections of state charges from prepaid and postpaid mobile
28 telephony service customers balance out so that neither pay a
29 disproportionate amount.

30 SEC. 3. Section 431 of the Public Utilities Code is amended
31 to read:

32 431. (a) The commission shall annually determine a fee to
33 be paid by every electrical, gas, telephone, telegraph, water, sewer
34 system, and heat corporation and every other public utility
35 providing service directly to customers or subscribers and subject
36 to the jurisdiction of the commission other than a railroad, except
37 as otherwise provided in Article 2 (commencing with Section 421),
38 *for common carriers and related businesses, and as otherwise*
39 *provided in Section 316, for prepaid mobile telephony service*
40 *providers.*

1 (b) The annual fee shall be established to produce a total amount
 2 equal to that amount established in the authorized commission
 3 budget for the same year, including adjustments for increases in
 4 employee compensation, other increases appropriated by the
 5 Legislature, and an appropriate reserve to regulate public utilities
 6 less the amount to be paid from special accounts or funds pursuant
 7 to Section 402, reimbursements, federal funds, and any other
 8 revenues, and the amount of unencumbered funds from the
 9 preceding year.

10 (c) This article shall not apply to any electrical cooperative as
 11 defined in Chapter 5 (commencing with Section 2776) of Part 2.

12 ~~On and after January 1, 1985, this article shall apply to~~
 13 ~~radiotelephone utilities as defined in Section 4902 as those~~
 14 ~~provisions read on December 31, 1984.~~

15 SEC. 4. Section 41020 of the Revenue and Taxation Code is
 16 amended to read:

17 41020. (a) A surcharge is hereby imposed on amounts paid
 18 by every person in the state for both of the following:

19 (1) Intrastate telephone communication service in this state
 20 ~~commencing on July 1, 1977. The surcharge shall be applied to~~
 21 ~~prepaid mobile telecommunications services pursuant to the~~
 22 ~~Prepaid Mobile Telephony Surcharge and Collection Act (Part 21~~
 23 ~~(commencing with Section 42000)), and the calculation of the~~
 24 ~~intrastate portion of charges for prepaid mobile~~
 25 ~~telecommunications services shall be made pursuant to paragraph~~
 26 ~~(1) of subdivision (b) of Section 42010.~~

27 (2) VoIP service that provides access to the “911” emergency
 28 system by utilizing the digits 9-1-1 by any service user in this state
 29 commencing on January 1, 2009. The surcharge shall not apply to
 30 charges for VoIP service where any point of origin or destination
 31 is outside of this state.

32 (b) (1) Notwithstanding Section 41025, charges not subject to
 33 the surcharge may be calculated by a service supplier based upon
 34 books and records kept in the regular course of business, and, for
 35 purposes of calculating the interstate revenue portion not subject
 36 to the surcharge, a service supplier may also choose a reasonable
 37 and verifiable method from the following:

- 38 (A) Books and records kept in the regular course of business.
- 39 (B) Traffic or call pattern studies representative of the service
- 40 supplier’s business within California.

1 (C) For VoIP service only, the VoIP safe harbor factor
2 established by the FCC to be used to calculate the service supplier's
3 contribution to the federal Universal Service Fund. The FCC safe
4 harbor factor in effect for VoIP service on September 1 of each
5 year shall apply for the period of January 1 through December 31,
6 inclusive, of the next succeeding calendar year for purposes of this
7 method. At such time as the FCC establishes a safe harbor factor
8 for the federal Universal Service Fund for VoIP service that is
9 greater than 75 percent for interstate revenue or abolishes the safe
10 harbor factor applicable to VoIP service, this method shall become
11 void and of no effect, in which case a VoIP service supplier may
12 use an alternative method approved in advance by the board, which
13 shall be available to all VoIP service suppliers. The FCC safe
14 harbor factor applicable to VoIP service, as described in this
15 subparagraph, is used solely as a mechanism to calculate the
16 charges not subject to the surcharge for VoIP service and is not
17 necessarily reflective of the intrastate portion of VoIP service. The
18 use of the FCC safe harbor factor authorized by this subdivision
19 shall not be interpreted to permit application of any intrastate
20 requirement, other than the surcharge imposed under this part,
21 upon VoIP service suppliers.

22 (2) Any method chosen by a service supplier shall remain in
23 effect for at least one calendar year.

24 (3) If a service supplier reasonably relies upon books and
25 records kept in the regular course of business or any documentation
26 that satisfies the reasonable and verifiable method, then the service
27 supplier's determination of the portion of the billed amount
28 attributable to services not subject to the surcharge shall be
29 rebuttably presumed to be correct. The service supplier's choice
30 of books and records or other method and surcharge billing practice
31 shall also be rebuttably presumed to be fair and legal business
32 practices.

33 (4) It is the intent of the Legislature that the provisions of
34 subparagraph (C) shall not be considered to be a precedent for the
35 application of the surcharge or any other tax or fee where a person
36 is required to collect a tax or fee imposed upon another.

37 (c) The surcharge imposed shall be at the rate of one-half of 1
38 percent of the charges made for such services to and including
39 November 1, 1982, and thereafter at a rate fixed pursuant to Article
40 2 (commencing with Section 41030).

1 (d) The surcharge shall be paid by the service user as hereinafter
2 provided.

3 (e) The surcharge imposed shall not apply to either of the
4 following:

5 (1) In accordance with the Mobile Telecommunications Sourcing
6 Act (Public Law 106-252), which is incorporated herein by
7 reference, to any charges for mobile telecommunications services
8 billed to a customer where those services are provided, or deemed
9 provided, to a customer whose place of primary use is outside this
10 state. Mobile telecommunications services shall be deemed
11 provided by a customer's home service provider to the customer
12 if those services are provided in a taxing jurisdiction to the
13 customer, and the charges for those services are billed by or for
14 the customer's home service provider.

15 (2) To any charges for VoIP service billed to a customer where
16 those services are provided to a customer whose place of primary
17 use of VoIP service is outside this state.

18 (f) For purposes of this section:

19 (1) "Charges for mobile telecommunications services" means
20 any charge for, or associated with, the provision of commercial
21 mobile radio service, as defined in Section 20.3 of Title 47 of the
22 Code of Federal Regulations, as in effect on June 1, 1999, or any
23 charge for, or associated with, a service provided as an adjunct to
24 a commercial mobile radio service, that is billed to the customer
25 by or for the customer's home service provider, regardless of
26 whether individual transmissions originate or terminate within the
27 licensed service area of the home service provider.

28 (2) "Customer" means (A) the person or entity that contracts
29 with the home service provider for mobile telecommunications
30 services, or with a VoIP service provider for VoIP service, or (B)
31 if the end user of mobile telecommunications services or VoIP
32 service is not the contracting party, the end user of the mobile
33 telecommunications service or VoIP service. This paragraph applies
34 only for the purpose of determining the place of primary use. The
35 term "customer" does not include (A) a reseller of mobile
36 telecommunications service or VoIP communication service, or
37 (B) a serving carrier under an arrangement to serve the mobile
38 customer outside the home service provider's licensed service
39 area.

- 1 (3) “Home service provider” means the facilities-based carrier
 2 or reseller with which the customer contracts for the provision of
 3 mobile telecommunications services.
- 4 (4) “Licensed service area” means the geographic area in which
 5 the home service provider is authorized by law or contract to
 6 provide commercial mobile radio service to the customer.
- 7 (5) “Mobile telecommunications service” means commercial
 8 mobile radio service, as defined in Section 20.3 of Title 47 of the
 9 Code of Federal Regulations, as in effect on June 1, 1999.
- 10 (6) “Place of primary use” means the street address
 11 representative of where the customer’s use of the mobile
 12 telecommunications service or VoIP service primarily occurs, that
 13 must be:
- 14 (A) The residential street address or the primary business street
 15 address of the customer.
- 16 (B) With respect to mobile telecommunications service, within
 17 the licensed service area of the home service provider.
- 18 (7) (A) “Reseller” means a provider who purchases
 19 telecommunications services or VoIP service from another
 20 telecommunications service provider or VoIP service and then
 21 resells the services, or uses the services as a component part of,
 22 or integrates the purchased services into, a mobile
 23 telecommunications service or VoIP service.
- 24 (B) “Reseller” does not include a serving carrier with which a
 25 home service provider arranges for the services to its customers
 26 outside the home service provider’s licensed service area.
- 27 (8) “Serving carrier” means a facilities-based carrier providing
 28 mobile telecommunications service to a customer outside a home
 29 service provider’s or reseller’s licensed area.
- 30 (9) “Taxing jurisdiction” means any of the several states, the
 31 District of Columbia, or any territory or possession of the United
 32 States, any municipality, city, county, township, parish,
 33 transportation district, or assessment jurisdiction, or any other
 34 political subdivision within the territorial limits of the United States
 35 with the authority to impose a tax, charge, or fee.
- 36 (10) “VoIP service provider” means that provider of VoIP
 37 service with whom the end user customer contracts for the
 38 provision of VoIP services for the customer’s own use and not for
 39 resale.

1 ~~(g) The amendments made to this section by the act that added~~
2 ~~this subdivision shall become operative upon the enactment of that~~
3 ~~act, except that subdivisions (a) and (b) of this section, as amended,~~
4 ~~shall become operative on January 1, 2009.~~

5 SEC. 5. Section 41030 of the Revenue and Taxation Code is
6 amended to read:

7 41030. (a) ~~The California Department of Technology Agency~~
8 shall determine annually, on or before October 1, *to be effective*
9 *on January 1 of the following year*, a surcharge ~~rate pursuant to~~
10 *subdivision (b)* that it estimates will produce sufficient revenue to
11 fund the current fiscal year's 911 costs.

12 (b) The surcharge ~~rate~~ shall be determined by dividing the costs
13 (including incremental costs) ~~the California Department of~~
14 ~~Technology Agency~~ estimates for the current fiscal year of 911
15 plans approved pursuant to Section 53115 of the Government
16 Code, less the available balance in the State Emergency Telephone
17 Number Account in the General Fund, by its estimate of the charges
18 for intrastate telephone communications services, *the interstate*
19 *portion of prepaid mobile telecommunications services*, and VoIP
20 service to which the surcharge will apply for the period of January
21 1 to December 31, inclusive, of the next succeeding calendar year,
22 but in no event shall such surcharge rate in any year be greater
23 than three-quarters of 1 percent nor less than one-half of 1 percent.
24 *In making its estimate of charges that are applicable to the*
25 *intrastate portion of prepaid mobile telecommunications services,*
26 *the Department of Technology shall multiply the surcharge by the*
27 *inverse of the interstate safe harbor percentage established by the*
28 *Federal Communications Commission for federal universal service*
29 *contribution purposes, consistent with the methodology to be used*
30 *by the board to calculate the prepaid MTS surcharge pursuant to*
31 *paragraph (1) of subdivision (b) of Section 42010.*

32 (c) *The Department of Technology shall notify the board of the*
33 *surcharge amount by October 15 of each year, commencing with*
34 *October 15, 2014. The board shall utilize the surcharge amount*
35 *to calculate the emergency telephone users surcharge component*
36 *of the prepaid MTS surcharge pursuant to paragraph (1) of*
37 *subdivision (b) and subdivision (d) of Section 42010.*

38 SEC. 6. Part 21 (commencing with Section 42000) is added to
39 Division 2 of the Revenue and Taxation Code, to read:

1 PART 21. PREPAID MOBILE TELEPHONY SERVICES
2 SURCHARGE AND COLLECTION ACT

3
4 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS
5

6 42000. This part shall be known, and may be cited, as the
7 Prepaid Mobile Telephony Services Surcharge and Collection Act.

8 42002. The Legislature finds and declares all of the following:

9 (a) Maintaining effective and efficient communications services,
10 911 emergency systems, communications-related public policy
11 programs to promote universal service, and various local programs
12 across the state benefits all persons with access to the
13 telecommunications system.

14 (b) Providers of end-use communications services, including
15 providers of mobile voice telecommunications services, which the
16 Federal Communications Commission terms mobile telephony
17 service, are required to collect and remit communications taxes,
18 fees, and surcharges on various types of communication service
19 revenues, as provided by existing state or local law.

20 (c) Consumers purchase prepaid mobile telephony services at
21 a wide variety of retail locations and other distribution channels,
22 as well as through service providers.

23 (d) Prepaid mobile telephony services are an important and
24 growing segment of the communications industry. Prepaidmobile
25 telephony services are often the only means by which persons with
26 low incomes can obtain limited access to the telecommunications
27 system.

28 (e) To ensure equitable contributions from end-use consumers
29 of postpaid and prepaid mobile telephony services in this state,
30 there should be standardization with respect to the method used
31 to collect communications taxes, fees, and surcharges from end-use
32 consumers of prepaid mobile telephony services.

33 (f) Prepaid mobile telephony services are frequently sold by a
34 third-party retailer that is not the provider of mobile telephony
35 services, and collecting taxes, fees, and surcharges from prepaid
36 consumers of mobile telephony services at the time of the retail
37 transaction is necessary and the most efficient and competitively
38 neutral means of collection.

39 (g) An equitable distribution mechanism is necessary to ensure
40 that utility user taxes and other telecommunication charges are

1 collected on behalf of cities and counties and are properly
2 distributed to those jurisdictions.

3 42004. For purposes of this part, the following terms have the
4 following meanings:

5 (a) “Board” means the State Board of Equalization.

6 (b) “Emergency telephone users surcharge” means surcharges
7 authorized pursuant to the Emergency Telephone Users Surcharge
8 Act (Part 20 (commencing with Section 41001)) to be billed and
9 collected from prepaid consumers of mobile telephony services.

10 (c) “In this state” means within the exterior limits of the State
11 of California and includes all territory within those limits owned
12 by or ceded to the United States of America.

13 (d) “Local charges” means those charges described in
14 subdivision (a) of Section 42101.

15 (e) “Local jurisdiction” means a city, county, or city and county,
16 which includes a charter city, county, or city and county.

17 (f) “Mobile telephony service” and “mobile data service” have
18 the same meanings as defined in Section 224.4 of the Public
19 Utilities Code.

20 (g) “Person” includes any individual, firm, partnership, joint
21 venture, limited liability company, association, social club, fraternal
22 organization, corporation, estate, trust, business trust, receiver,
23 assignee for the benefit of creditors, trustee, trustee in bankruptcy,
24 syndicate, the United States, this state, any city, county, city and
25 county, municipality, district, or other political subdivision of the
26 state, or any other group or combination acting as a unit.

27 (h) “Prepaid consumer” means a person who purchases prepaid
28 mobile telephony services in a retail transaction.

29 (i) “Prepaid mobile telephony services” means the right to utilize
30 a mobile device authorized by the Federal Communications
31 Commission for mobile telecommunications services or
32 information services, including the download of digital products
33 delivered electronically, content, and ancillary services, or both
34 telecommunications services and information services, that is
35 purchased in advance of usage in predetermined units or dollars,
36 with the right of usage declining in a known amount upon being
37 used. For these purposes, “telecommunications service” and
38 “information service” have the same meanings as defined in
39 Section 153 of Title 47 of the United States Code.

1 (j) “Prepaid MTS provider” means a person that provides
2 prepaid mobile telephony services pursuant to a license issued by
3 the Federal Communications Commission.

4 (k) “Prepaid MTS surcharge” means a unitary surcharge that
5 consists of the emergency telephone users surcharge and the Public
6 Utilities Commission surcharges, as calculated pursuant to
7 subdivision (b) of Section 42010.

8 (l) “Public Utilities Commission surcharges” means surcharges
9 authorized by the Public Utilities Commission to be billed and
10 collected from end-use consumers of wireless communications
11 services, and of which the commission provides the board with
12 notice pursuant to Section 316 of the Public Utilities Code,
13 including:

14 (1) The California High-Cost Fund-A Administrative Committee
15 Fund program surcharge (Section 275.6 of the Public Utilities
16 Code).

17 (2) The California High-Cost Fund-B Administrative Committee
18 Fund program surcharge (Section 739.3 of the Public Utilities
19 Code).

20 (3) The Deaf and Disabled Telecommunications Program
21 Administrative Committee Fund surcharge (Section 2881 of the
22 Public Utilities Code).

23 (4) The California Teleconnect Fund Administrative Committee
24 Fund program surcharge (Section 280 of the Public Utilities Code).

25 (5) The California Advanced Services Fund program surcharge
26 (Section 281 of the Public Utilities Code).

27 (6) The Moore Universal Telephone Service Act (Article 8
28 commencing with Section 871) of Chapter 4 of Part 1 of Division
29 1 of the Public Utilities Code).

30 (7) Public Utilities Commission reimbursement fees imposed
31 pursuant to Chapter 2.5 (commencing with Section 401) of Part 1
32 of Division 1 of the Public Utilities Code.

33 (m) “Retail transaction” means the purchase of prepaid mobile
34 telephony services, either alone or in combination with mobile
35 data services, from a seller for any purpose other than resale in the
36 regular course of business. For these purposes, a “purchase” means
37 any transfer of title or possession, exchange, or barter, conditional
38 or otherwise.

39 (n) “Seller” means a person that sells prepaid mobile telephony
40 service to a prepaid consumer.

1 Section 42012 that it no longer imposes a local charge or local
2 charges or that the rate of its local charge or local charges has
3 decreased since the previous October 1 calculation, the board shall
4 promptly post a recalculated rate that is applicable to the
5 jurisdiction of that local agency. A seller collecting the prepaid
6 MTS surcharge and local charges pursuant to this part and Part
7 21.2 (commencing with Section 42100) may rely upon the accuracy
8 of the information posted on the board's Internet Web site in
9 collecting the state surcharge and local charges.

10 (d) Except for amounts retained pursuant to subdivision (e), all
11 amounts of the prepaid MTS surcharge and local charges collected
12 by sellers shall be remitted to the board pursuant to Chapter 3
13 (commencing with Section 42020).

14 (e) A seller shall be permitted to deduct and retain an amount
15 equal to 3 percent of the amounts that are collected by the seller
16 from prepaid consumers for the prepaid MTS surcharge and local
17 charges.

18 (f) The amount of the combined prepaid MTS surcharge and
19 local charges shall be separately stated on an invoice, receipt, or
20 other similar document that is provided to the prepaid consumer
21 of mobile telephony services by the seller, or otherwise disclosed
22 to the prepaid consumer, at the time of the retail transaction.

23 (g) The prepaid MTS surcharge and any local charges are
24 required to be collected by a seller and any amount unreturned to
25 the prepaid consumer of mobile telephony services that is not owed
26 as part of the surcharge, but was collected from the prepaid
27 consumer under the representation by the seller that it was owed
28 as part of the surcharge, constitute debts owed by the seller to this
29 state.

30 (h) (1) Every prepaid consumer of mobile telephony services
31 in this state is liable for the prepaid MTS surcharge and any local
32 charges until they have been paid to this state, except that payment
33 to a seller registered under this part relieves the prepaid consumer
34 from further liability for the surcharge and local charges. Any
35 surcharge collected from a prepaid consumer that has not been
36 remitted to the board shall be a debt owed to the state by the person
37 required to collect and remit the surcharge. Nothing in this part
38 shall impose any obligation upon a seller to take any legal action
39 to enforce the collection of the surcharge imposed by this section
40 and local charges.

1 (2) A credit shall be allowed against, but shall not exceed, the
2 prepaid MTS surcharge and local charges imposed on any prepaid
3 consumer of mobile telephony services by this part to the extent
4 that the prepaid consumer has paid emergency telephone users
5 charges, state utility regulatory commission fees, state universal
6 service charges, or local charges on the purchase to any other state,
7 political subdivision thereof, or the District of Columbia. The credit
8 shall be apportioned to the charges against which it is allowed in
9 proportion to the amounts of those charges.

10 42012. (a) A local agency that has enacted a local charges
11 shall provide the board with notice of the amount or level of
12 charges that is applicable to prepaid mobile telephony service,
13 expressed as a percentage of the sales price of prepaid mobile
14 telephony services, on or before each October 15, commencing
15 October 15, 2014. If any local charges are for a fixed amount for
16 a specified period of time, the local agency shall notify the board
17 of any such local charge that is applicable to prepaid mobile
18 telephony services on or before October 15 of each year.

19 (b) A local agency that has enacted local charges shall
20 immediately notify the board of any reduction or elimination of
21 charges that are applicable to prepaid mobile telephony services.

22 42014. (a) For purposes of this part, a retail transaction occurs
23 in the state under any of the following circumstances:

24 (1) The prepaid consumer makes the retail transaction in person
25 at a business location in the state (point-of-sale transaction).

26 (2) If paragraph (1) is not applicable, the prepaid consumer's
27 address is in the state (known-address transaction). A
28 known-address transaction occurs in the state under any of the
29 following circumstances:

30 (A) The retail sale involves shipping of an item to be delivered
31 to, or picked up by, the prepaid consumer at a location in the state.

32 (B) The prepaid consumer is being billed for the retail
33 transaction at an address in the state.

34 (C) If the prepaid consumer's address is known by the seller to
35 be in the state, including if the seller's records maintained in the
36 ordinary course of business, indicate that the prepaid consumer's
37 address is in the state and the records are not made or kept in bad
38 faith.

39 (D) The prepaid consumer provides an address during
40 consummation of the retail transaction that is in the state, including

1 an address provided with respect to the a payment instrument if
2 no other address is available and the address is not given in bad
3 faith.

4 (b) A retail transaction shall occur at only one location for
5 purposes of determining local charges. If the retail transaction is
6 a point-of-sale transaction, the consumption of, or access to, the
7 prepaid mobile telephony service shall be presumed to be at that
8 location. If the retail transaction is a known-address transaction,
9 the location shall be as determined in descending order beginning
10 with subparagraph (A) of paragraph (2), if subparagraph (A) is
11 inapplicable, then pursuant to subparagraph (B), if both
12 subparagraph (A) and (B) are inapplicable, then subparagraph (C),
13 and if subparagraphs (A), (B), and (C) are inapplicable, then
14 subparagraph (D).

15 (c) (1) The board may make software available to sellers to
16 enable a seller to match the location of a retail transaction to the
17 applicable prepaid MTS surcharge amount and local charges.

18 (2) A seller that relies in good faith on information provided by
19 the board to match the location of a point-of-sale transaction to
20 the applicable prepaid MTS surcharge amount and local charges,
21 collects that amount from the prepaid consumer, and remits the
22 amount to the board in compliance with this part, shall not be liable
23 for any additional MTS surcharge or local charges and shall not
24 be required to refund any amounts collected and paid to the board
25 to the prepaid consumer.

26 (3) For a known-address transaction, the seller may collect the
27 prepaid MTS surcharge and local charges that corresponds to the
28 five digit postal ZIP Code of the prepaid consumer's address. A
29 seller that relies in good faith on information provided by the board
30 to match the five digit postal ZIP Code of the prepaid consumer's
31 address to the applicable prepaid MTS surcharge and local charges
32 amount, collects that amount from the prepaid consumer, and
33 remits the amount to the board in compliance with this part, shall
34 not be liable for any additional MTS surcharge or local tax and
35 shall not be required to refund any amounts collected and paid to
36 the board to the prepaid consumer. If the five digit postal ZIP Code
37 of the prepaid consumer's address corresponds to more than one
38 local charge and the amount collected and remitted to the board
39 corresponds to one of the local charges that is applicable to that
40 ZIP Code, the seller shall not be liable for any additional local

1 charges and shall not be required to refund any local charges
2 collected and paid to the board to the prepaid consumer.

3 42016. The prepaid MTS surcharge and local charges are
4 imposed on the prepaid consumer of mobile telephony services
5 and not on the seller or of any prepaid MTS provider, except that
6 the seller shall collect and remit all of the prepaid MTS surcharges
7 and local charges pursuant to this part and Part 21.1 (commencing
8 with Section 42100).

9 42018. (a) If prepaid mobile telephony services are sold with
10 one or more other products for a single, nonitemized price, then
11 the prepaid MTS surcharge and local charges shall apply to the
12 entire nonitemized price unless the seller elects to apply the
13 surcharge and local charges to either of the following:

14 (1) If the purchase price for the prepaid mobile telephony
15 services component of the bundled charge is disclosed to the
16 prepaid consumer on a receipt, invoice, or other written
17 documentation, the prepaid MTS surcharge and local charges may
18 be calculated based upon that amount.

19 (2) If the seller can identify the portion of the bundled price that
20 is attributable to supplying prepaid mobile telephony services by
21 reasonable and verifiable standards from its books and records that
22 are kept in the regular course of business for other purposes,
23 including nontax purposes, the prepaid MTS surcharge and local
24 charges may be calculated based upon that amount.

25 (b) If a minimal amount of prepaid mobile telephony service is
26 sold for a single, nonitemized price with a mobile telephony service
27 communications device, commonly termed a cellular telephone,
28 the seller may elect not to apply the prepaid MTS surcharge or
29 local charges to the transaction. For these purposes, a service
30 allotment denominated as 10 minutes or less, or five dollars (\$5)
31 or less, is a minimal amount.

32

33

CHAPTER 3. ADMINISTRATION

34

35 42020. (a) The board shall administer the prepaid MTS
36 surcharge imposed by this part pursuant to the Fee Collection
37 Procedures Law (Part 30 (commencing with Section 55001)). For
38 purposes of this part, the references in the Fee Collection
39 Procedures Law to “fee” shall include the prepaid MTS surcharge
40 imposed by this part, and references to “feepayer” shall include a

1 person required to pay the surcharge imposed by this part, which
2 includes the seller, who shall be required to register with the board.
3 The audit, refund, and appeal procedures of the Fee Collection
4 Procedures Law (Part 30 (commencing with Section 55001)) shall
5 apply to the collection and remittance of the prepaid MTS
6 surcharge.

7 (b) (1) The board may prescribe, adopt, and enforce regulations
8 relating to the administration and enforcement of this part,
9 including, but not limited to, collections, reporting, refunds, and
10 appeals.

11 (2) The board may prescribe, adopt, and enforce any emergency
12 regulations as necessary to implement this part. Any emergency
13 regulation prescribed, adopted, or enforced pursuant to this section
14 shall be adopted in accordance with Chapter 3.5 (commencing
15 with Section 11340) of Part 1 of Division 3 of Title 2 of the
16 Government Code, and, for purposes of that chapter, including
17 Section 11349.6 of the Government Code, the adoption of the
18 regulation is an emergency and shall be considered by the Office
19 of Administrative Law as necessary for the immediate preservation
20 of the public peace, health and safety, and general welfare.

21 (c) The board shall establish procedures to be utilized by a seller
22 to document that a sale is not a retail transaction.

23 (d) The board shall establish procedures for sharing of
24 information, other than information protected under Section 19542,
25 related to the collection of the prepaid MTS surcharge upon the
26 request of the Public Utilities Commission or the Department of
27 Technology.

28 42021. (a) The prepaid MTS surcharge, minus the amount
29 retained by the seller pursuant to subdivision (e) of Section 42010,
30 is due and payable to the board quarterly on or before the last day
31 of the month next succeeding each quarterly period.

32 (b) On or before the last day of the month following each
33 quarterly period of three months, a return for the preceding
34 quarterly period shall be filed using electronic media with the
35 board.

36 (c) Returns shall be authenticated in a form or pursuant to
37 methods as may be prescribed by the board.

38 42022. Every seller shall register with the board. Every
39 application for registration shall be made upon a form prescribed
40 by the board and shall set forth the name under which the applicant

1 transacts or intends to transact business, the location of its place
2 or places of business, and such other information as the board may
3 require. An application for an registration shall be authenticated
4 in a form or pursuant to methods as may be prescribed by the
5 board.

6 42023. (a) The Prepaid Mobile Telephony Services Surcharge
7 Fund is hereby created in the State Treasury. The Prepaid MTS
8 911 Account and the Prepaid MTS PUC Account are hereby
9 created in the fund. The Prepaid Mobile Telephony Services
10 Surcharge Fund shall consist of all surcharges, interest, penalties,
11 and other amounts collected and paid to the board pursuant to this
12 part, less a deduction in an amount not to exceed 2 percent of the
13 collected amounts to refund and reimburse the board for expenses
14 incurred in the administration and collection of the prepaid MTS
15 surcharge.

16 (b) All moneys in the Prepaid Mobile Telephony Services
17 Surcharge Fund attributable to the prepaid MTS surcharge shall
18 be deposited as follows:

19 (1) That portion of the prepaid MTS surcharge that is for the
20 emergency telephone users surcharge shall be deposited into the
21 Prepaid MTS 911 Account.

22 (2) That portion of the prepaid MTS surcharge that is for the
23 Public Utilities Commission surcharges shall be deposited into the
24 Prepaid MTS PUC Account.

25 (c) Moneys in the Prepaid MTS 911 Account and the Prepaid
26 MTS PUC Account may be appropriated by the Legislature only
27 for the purposes for which the moneys were collected. All moneys
28 collected pursuant to this part shall be allocated only to the entities
29 specified in this section and shall not be used for any other purpose,
30 including, but not limited to, loans, transfers, or uses for any other
31 purpose, funds, or account.

32 SEC. 7. Part 21.1 (commencing with Section 42100) is added
33 to Division 2 of the Revenue and Taxation Code, to read:

34

35 PART 21.1. LOCAL PREPAID MOBILE TELEPHONY
36 SERVICES COLLECTION ACT

37

38 42100. (a) This part shall be known and may be cited as the
39 Local Prepaid Mobile Telephony Services Collection Act.

1 (b) It is a matter of statewide concern that local prepaid mobile
2 telephony services be collected in a uniform manner and for a
3 limited number of rates in order for the collection be fair and
4 uniform on a statewide basis.

5 42101. For purposes of this part, all of the following definitions
6 shall apply:

7 (a) “Local charge” means the utility user taxes as described in
8 Section 42102, and charges for access to communication services
9 or to local “911” emergency telephone systems, as described in
10 Section 42103.

11 (b) “Prepaid mobile telephony services” has the same meaning
12 as that term is defined in the Prepaid Mobile Telephony Services
13 Surcharge and Collection Act (Part 21 (commencing with Section
14 42000)).

15 42101.5. On and after January 1, 2015, and before _____, a local
16 charge imposed on the consumption of prepaid mobile telephony
17 services shall be collected from the prepaid consumer at the same
18 time and in the same manner as the prepaid MTS surcharge is
19 collected under Part 21 (commencing with Section 42000), in lieu
20 of collection of those local charges by the city, county, or city and
21 county, including a charter city, county, or city and county.

22 42102. (a) Notwithstanding any other law, on and after January
23 1, 2015, and before _____, the authority of a city, county, or city
24 and county, which includes a charter city, county, or city and
25 county, to impose a utility user tax rate on the consumption of
26 prepaid mobile telephony service in the city, county, or city and
27 county at the rate as specified in an ordinance authorized pursuant
28 to Section 7284.2 or any other law is suspended, and it is the intent
29 of the Legislature to create a tiered method for collection of the
30 utility user tax rate.

31 (b) Subdivision (a) is a self-executing provision that operates
32 without regard to any decision or act on the part of any city, county,
33 or city and county. A change in a utility user tax rate resulting
34 from either the suspension of, or the termination of the suspension
35 of, a utility user rate adopted by a city, county, or city and county
36 set forth in subdivision (a) is not subject to voter approval under
37 either statute or Article XIII C of the California Constitution.

38 (c) Notwithstanding subdivision (a), a city, county, or city and
39 county may levy, increase, or extend a utility user tax at any rate
40 on the consumption of communication services, including a utility

1 user tax on the consumption of prepaid mobile telephony service,
2 except that during the period on and after January 1, 2015, and
3 before ____, any utility user tax rate on prepaid mobile telephony
4 service under any ordinance as so adopted shall be the applicable
5 rate specified in subdivision (a).

6 42102.5. (a) Notwithstanding any other law, on and after
7 January 1, 2015, and before ____, the authority of a city, county,
8 or city and county, which includes a charter city, county, or city
9 and county, to impose a charge, that applies to prepaid mobile
10 telephony service, for access to communication services or access
11 to local “911” emergency telephone systems in the city, county,
12 or city and county at the rate as specified in an ordinance is
13 suspended, and the rate to be applied instead during that period
14 under any ordinance as so adopted is the applicable of the
15 following:

16 (1) In the case of a city, county, or city and county that has
17 adopted an ordinance to impose a charge, that applies to prepaid
18 mobile telephony service, for access to communication services
19 or access to local “911” emergency telephone systems in the city,
20 county, or city and county at the rate of less than ____ dollars
21 (\$____) per month per access line, including any adjustments for
22 inflation, the rate shall be 0 percent.

23 (2) In the case of a city, county, or city and county that has
24 adopted an ordinance to impose a charge, that applies to prepaid
25 mobile telephony service, for access to communication services
26 or access to local “911” emergency telephone systems in the city,
27 county, or city and county at the rate of ____ dollars (\$____) per
28 month per access line, including any adjustments for inflation, or
29 more but less than ____ dollars (\$____) per month per access line,
30 including any adjustments for inflation, the rate shall be the
31 percentage obtained by dividing ____ by fifty, rounded up to the
32 nearest one-tenth of 1 percent.

33 (b) Subdivision (a) is a self-executing provision that operates
34 without regard to any decision or act on the part of any city, county,
35 or city and county. A change in an access charge rate resulting
36 from either the suspension of, or the termination of the suspension
37 of, a charge adopted by a city, county, or city and county set forth
38 in subdivision (a) is not subject to voter approval under either
39 statute or Article XIII C of the California Constitution.

1 (c) Notwithstanding subdivision (a), a city, county, or city and
2 county may levy, increase, or extend a charge at any rate, that
3 applies to prepaid mobile telephony services, for access to
4 communication services or access to local “911” emergency
5 telephone systems in the city, county, or city and county, except
6 that during the period on and after January 1, 2015, and before
7 ____, any charge on prepaid mobile telephony service under any
8 ordinance as so adopted shall be the applicable rate specified in
9 subdivision (a).

10 42103. (a) The board shall perform all functions incident to
11 the administration and collection of the local charges of a city,
12 county, or a city and county, and shall collect and administer the
13 local charges in the manner as prescribed for the collection and
14 administration of the prepaid MTS surcharge in the Prepaid Mobile
15 Telephony Services Surcharge and Collection Act (Part 21
16 (commencing with Section 42000)).

17 (b) All local charges imposed by a city, county, or city and
18 county collected by the board may be deposited in the Prepaid
19 Mobile Telephony Services Surcharge Fund, created by Section
20 42023, and may be drawn from that fund to make refunds, to
21 compensate the board for its cost of administration of this part in
22 an amount not to exceed 2 percent of the collected amounts, and
23 shall be transmitted to the city, county, or city and county
24 periodically as promptly as feasible. The transmittals required
25 under this section shall be made at least once in each calendar
26 quarter. The board shall furnish a statement indicating the amounts
27 paid and withheld.

28 (c) The board shall prescribe and adopt rules and regulations as
29 may be necessary or desirable for the administration and collection
30 of local charges and the distribution of the local charges collected.

31 42105. (a) The city, county, or city and county shall reimburse
32 the board for, and hold the board harmless from, any and all costs,
33 losses, or refunds of any kind whatsoever.

34 (b) In the event that a legal action is commenced challenging
35 the validity of the local charge in its entirety, as opposed to its
36 application to an individual taxpayer, the city, county, or city and
37 county shall place the local charge proceeds into an interest-bearing
38 escrow account until the legality of the local charge is finally
39 resolved by a final and nonappealable decision rendered by a court

1 of competent jurisdiction. That provision shall be enforceable by
2 any interested person in a proceeding for a writ of mandate.

3 (c) The city, county, or city and county shall be entitled to
4 indemnity for any and all costs, losses, or refunds from any entity,
5 except the state, that participated in the imposition of the tax. For
6 the purposes of this part, “participated” means any involvement
7 in procuring the legislation that authorized the tax, or in enacting
8 or administering the ordinance imposing the tax. Any organization
9 that is a member of the legislative body of the district imposing
10 the tax has participated in the imposition of the tax within the
11 meaning of this section.

12 42106. (a) For purposes of this section:

13 (1) “Quarterly local charges” means the total amount of local
14 charges transmitted by the board to a city, county, or city and
15 county for a calendar quarter.

16 (2) “Refund” means the amount of local charges deducted by
17 the board from a city’s, county’s, or city and county’s quarterly
18 local charges in order to pay the city’s, county’s, or city and
19 county’s share of a local charge refund due to one taxpayer.

20 (3) “Offset portion” means that portion of the refund which
21 exceeds the greater of fifty thousand dollars (\$50,000) or 20 percent
22 of the city’s, county’s, or city and county’s quarterly local charges.

23 (b) Except as provided in subdivision (c), if the board has
24 deducted a refund from a city’s, county’s, or city and county’s
25 quarterly local charges which includes an offset portion, then the
26 following provisions apply:

27 (1) Within three months after the board has deducted an offset
28 portion, the city, county, or city and county may request the board
29 to transmit the offset portion to the city, county, or city and county.

30 (2) As promptly as feasible after the board receives the city’s,
31 county’s, or city and county’s request, the board shall transmit to
32 the city, county, or city and county the offset portion as part of the
33 board’s periodic transmittal of local charges.

34 (3) The board shall thereafter deduct a pro rata share of the
35 offset portion from future transmittals of local charges to the city,
36 county, or city and county over a period to be determined by the
37 board, but not less than two calendar quarters and not more than
38 eight calendar quarters, until the entire amount of the offset portion
39 has been deducted.

1 (c) The board shall not transmit the offset portion of the refund
 2 to the city, county, or city and county if that transmittal would
 3 reduce or delay either the board’s payment of the refund to the
 4 taxpayer or the board’s periodic transmittals of local charges to
 5 other cities, counties, or city and county.

6 42107. The city, county, or city and county shall pay to the
 7 board its costs of preparation to administer the collection of local
 8 charges. The city, county, or city and county shall pay such costs
 9 monthly as incurred and billed by the board. Such costs include
 10 all preparatory costs, including costs of developing procedures,
 11 programming for data processing, developing and adopting
 12 appropriate regulations, designing and printing of forms,
 13 developing instructions for the board’s staff and for taxpayers, and
 14 other necessary preparatory costs which shall include the board’s
 15 direct and indirect costs as specified by Section 11256 of the
 16 Government Code. Any disputes as to the amount of preparatory
 17 costs incurred shall be resolved by the Director of Finance, and
 18 his or her decision shall be final. The maximum amount of all
 19 preparatory costs to be paid by the city, county, or city and county
 20 shall not, in any event, exceed ____ thousand dollars (\$____).

21 42108. (a) There shall be no recovery from the state for the
 22 imposition of any unconstitutional or otherwise invalid local charge
 23 that is collected pursuant to this part.

24 (b) If a final and nonappealable decision of a court of competent
 25 jurisdiction determines that a local charge is unconstitutional or
 26 otherwise invalid, the city, the county, or the city and county, as
 27 the case may be, shall transfer to the board the revenues derived
 28 from the unconstitutional or invalid local charge necessary to
 29 reimburse claimants for the unconstitutional or invalid local charge
 30 paid, including interest allowed under Section 6907. The board
 31 shall deposit these revenues in a segregated impound account in
 32 the Prepaid Mobile Telephony Services Surcharge Fund, and shall
 33 administer any refunds necessitated in accordance with the Fee
 34 Collection Procedures Law (Part 30 (commencing with Section
 35 55001)).

36 42109. The board shall annually prepare a report showing the
 37 amount of both reimbursed and unreimbursed costs incurred by it
 38 in administering the collection of local charges pursuant to this
 39 part.

1 42110. The board or any person authorized in writing by it
2 may examine the books, papers, records, and equipment of any
3 person selling prepaid mobile telephony services and may
4 investigate the character of the business of the person in order to
5 verify the accuracy of any return made, or, if no return is made by
6 the person, to ascertain and determine the amount required to be
7 paid.

8 SEC. 8. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 SEC. 9. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to provide a standardized collection mechanism as soon
22 as possible by which state and local charges can be collected from
23 end-users of prepaid mobile telephony services, thereby permitting
24 needed financial support for programs necessary to serve the public
25 or telecommunications users, it is necessary that this act take effect
26 immediately.