

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY JUNE 3, 2013

AMENDED IN ASSEMBLY MAY 21, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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~~ 319 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 amended, 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~~, *Office of Emergency Services*, 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, or 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 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 *for prepaid mobile telephony services* the PUC’s reimbursement fee and 6 universal service program fees, to post notice of those fees on its Internet Web-site *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~~

The bill would require the PUC, 30 days prior to adopting any adjustment to a reimbursement fee or universal service fee on both postpaid and prepaid intrastate service to prepare a prescribed resolution or other public document proposing the fee adjustment and explaining the calculation of the new fee, as specified, and would require the PUC to make it available to the public and on the PUC's Internet Web site.

~~The bill would require the Department of Technology Office of Emergency Services~~ 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. *The bill would require the Office of Emergency Services to prepare a prescribed summary of the calculation of the proposed 911 surcharge and make the summary available to the public and on its Internet Web site, as specified.* 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 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 require the utility user tax rate to be applied during that period

under any ordinance to be at specified tiered rates, to be collected and administered as prescribed in the Prepaid Mobile Telephony Services Surcharge Collection Act. 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 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 suspension period 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, deposited in the Local Charges for Prepaid Mobile Telephony Services Fund, which this bill would create, and transmitted to the city, county, or a city and county, as provided.

This bill would allow a consumer to rebut the presumed location of a retail transaction for purposes of the collection of the local charges by filing a claim and declaration under penalty of perjury.

By expanding the crime of perjury, this bill would impose a state-mandated local program.

(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: $\frac{2}{3}$. 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
20 specific small radio receivers designed to be carried by a person
21 and to give an aural, visual, or tactile indication when activated.
22 (c) “Mobile satellite telephone service” means voice
23 communication to end users over a mobile satellite service
24 involving the provision of commercial mobile radio service,
25 pursuant to Parts 20 and 25 of Title 47 of the Code of Federal
26 Regulations.
27 (d) “Mobile telephony service” means commercially available
28 interconnected mobile phone services that provide voice
29 communication access to the public switched telephone network
30 (PSTN) by way of mobile communication devices employing
31 radiowave technology to transmit calls, including cellular
32 radiotelephone, broadband Personal Communications Services
33 (PCS), digital Specialized Mobile Radio (SMR), or another radio
34 band licensed by the Federal Communications Commission.
35 “Mobile telephony services” does not include mobile satellite

1 telephone services or mobile data services used exclusively for
2 the delivery of nonvoice information to a mobile device.

3 ~~SEC. 2. Section 316 is added to the Public Utilities Code, to~~
4 ~~read:~~

5 ~~316. (a) The commission shall annually, on or before October~~
6 ~~1 of each year, commencing October 1, 2014, compute a~~
7 ~~reimbursement fee as a percentage of the sales price for prepaid~~
8 ~~mobile telephony services, to be effective on January 1 of the~~
9 ~~following year and to be collected and remitted pursuant to the~~
10 ~~Prepaid Mobile Telephony Services Surcharge Collection Act (Part~~
11 ~~21 (commencing with Section 42000) of Division 2 of the Revenue~~
12 ~~and Taxation Code). On or before October 15 of each year,~~
13 ~~commencing October 15, 2014, the commission shall post notice~~
14 ~~of the reimbursement fee on its Internet Web site and notify the~~
15 ~~State Board of Equalization of this information.~~

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

28 ~~(c) (1) This section does not restrict the commission's authority~~
29 ~~to adjust reimbursement fees or universal service fees or require~~
30 ~~that they only be adjusted once annually.~~

31 ~~(2) In annually computing reimbursement fees and universal~~
32 ~~service fees to be collected and remitted to the commission~~
33 ~~pursuant to this section, the commission shall adjust the fees to~~
34 ~~account for any past overcollection of fees from prepaid mobile~~
35 ~~telephony service customers resulting from a reduction in fees~~
36 ~~made subsequent to December 31 of the previous year.~~

37 ~~(3) In annually computing reimbursement fees and universal~~
38 ~~service fees to be collected and remitted to the commission~~
39 ~~pursuant to this section, the commission may adjust the fees to~~
40 ~~account for any past undercollection of fees from prepaid mobile~~

1 telephony service customers resulting from an increase in fees
2 made subsequent to December 31 of the previous year.

3 (4) ~~If both upward and downward adjustments are made to
4 reimbursement fees and universal service fees subsequent to
5 December 31, the commission may adjust how collections are
6 deposited into the reimbursement and universal service accounts
7 so that overcollections or undercollections are minimized.~~

8 (5) ~~It is the intent of the Legislature that reimbursement fees
9 and universal service fees be applied, as much as possible, in a
10 competitively neutral manner that does not favor either prepaid or
11 postpaid payment for mobile telephony services, and that, over
12 time, collections of state charges from prepaid and postpaid mobile
13 telephony service customers balance out so that neither pay a
14 disproportionate amount.~~

15 (d) ~~The commission shall have enforcement authority to ensure
16 the proper remittances over retail transactions, pursuant to the
17 Prepaid Mobile Telephony Services Surcharge Collection Act (Part
18 21 (commencing with Section 42000) of Division 2 of the Revenue
19 and Taxation Code), where the prepaid mobile telephony services
20 (Prepaid MTS) provider is also the seller. The commission shall
21 collaborate with the State Board of Equalization in exercising its
22 enforcement authority pursuant to this subdivision.~~

23 *SEC. 2. Section 319 is added to the Public Utilities Code, to
24 read:*

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

36 *(b) The commission shall annually, on or before October 1 of
37 each year, commencing October 1, 2014, compute the cumulative
38 amount of the telecommunications universal service surcharges
39 as a percentage of the sales price for prepaid mobile telephony
40 services, to be effective on January 1 of the following year and to*

1 *be collected and remitted pursuant to the Prepaid Mobile*
2 *Telephony Services Surcharge Collection Act (Part 21*
3 *(commencing with Section 42000) of Division 2 of the Revenue*
4 *and Taxation Code). On or before October 15 of each year,*
5 *commencing October 15, 2014, the commission shall post notice*
6 *of the cumulative surcharge on its Internet Web site and notify the*
7 *State Board of Equalization of this information.*

8 (c) (1) *This section neither restricts the commission's authority*
9 *to adjust reimbursement fees or universal service fees nor requires*
10 *that they only be adjusted once annually.*

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

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

23 (4) *If both upward and downward adjustments are made to*
24 *reimbursement fees and universal service fees subsequent to*
25 *December 31, the commission may adjust how collections are*
26 *deposited into the reimbursement and universal service accounts*
27 *so that overcollections or undercollections are minimized.*

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

35 (6) *At least 30 days prior to adopting any adjustment to a*
36 *reimbursement fee or universal service fee to be collected and*
37 *remitted to the commission on both postpaid and prepaid intrastate*
38 *service, the commission shall prepare a resolution or other public*
39 *document proposing the fee adjustment and explaining the*
40 *calculation of the fee. The commission shall make the resolution*

1 *or other public document available to the public and on the*
2 *commission's Internet Web site and it shall include all of the*
3 *following:*

4 *(A) The prior year revenues from the fee, including, but not*
5 *limited to, revenues from prepaid service.*

6 *(B) Projected expenses and revenues from all sources, including,*
7 *but not limited to, prepaid service, for the purposes of the fee.*

8 *(C) The rationale for adjustment to the reimbursement fee or*
9 *universal service fee, including, but not limited to, all impacts from*
10 *prepaid service surcharge collection.*

11 *(d) The commission shall have enforcement authority to ensure*
12 *the proper remittances over retail transactions, pursuant to the*
13 *Prepaid Mobile Telephony Services Surcharge Collection Act*
14 *(Part 21 (commencing with Section 42000) of Division 2 of the*
15 *Revenue and Taxation Code), where the prepaid mobile telephony*
16 *services (Prepaid MTS) provider is also the seller. The commission*
17 *shall collaborate with the State Board of Equalization in exercising*
18 *its enforcement authority pursuant to this subdivision.*

19 SEC. 3. Section 431 of the Public Utilities Code is amended
20 to read:

21 431. (a) The commission shall annually determine a fee to be
22 paid by every electrical, gas, telephone, telegraph, water, sewer
23 system, and heat corporation and every other public utility
24 providing service directly to customers or subscribers and subject
25 to the jurisdiction of the commission other than a railroad, except
26 as otherwise provided in Article 2 (commencing with Section 421),
27 for common carriers and related businesses, and as otherwise
28 provided in Section ~~316~~, 319, for prepaid mobile telephony service
29 providers.

30 (b) The annual fee shall be established to produce a total amount
31 equal to that amount established in the authorized commission
32 budget for the same year, including adjustments for increases in
33 employee compensation, other increases appropriated by the
34 Legislature, and an appropriate reserve to regulate public utilities
35 less the amount to be paid from special accounts or funds pursuant
36 to Section 402, reimbursements, federal funds, and any other
37 revenues, and the amount of unencumbered funds from the
38 preceding year.

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

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

3 41020. (a) A surcharge is hereby imposed on amounts paid
4 by every person in the state for both of the following:

5 (1) Intrastate telephone communication service in this state. The
6 surcharge shall be applied to prepaid mobile telecommunications
7 services pursuant to the Prepaid Mobile Telephony Services
8 Surcharge Collection Act (Part 21 (commencing with Section
9 42000)), and the calculation of the intrastate portion of charges
10 for prepaid mobile telecommunications services shall be made
11 pursuant to paragraph (1) of subdivision (b) of Section 42010.

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

17 (b) (1) Notwithstanding Section 41025, charges not subject to
18 the surcharge may be calculated by a service supplier based upon
19 books and records kept in the regular course of business, and, for
20 purposes of calculating the interstate revenue portion not subject
21 to the surcharge, a service supplier may also choose a reasonable
22 and verifiable method from the following:

23 (A) Books and records kept in the regular course of business.

24 (B) Traffic or call pattern studies representative of the service
25 supplier’s business within California.

26 (C) For VoIP service only, the VoIP safe harbor factor
27 established by the FCC to be used to calculate the service supplier’s
28 contribution to the federal Universal Service Fund. The FCC safe
29 harbor factor in effect for VoIP service on September 1 of each
30 year shall apply for the period of January 1 through December 31,
31 inclusive, of the next succeeding calendar year for purposes of this
32 method. At such time as the FCC establishes a safe harbor factor
33 for the federal Universal Service Fund for VoIP service that is
34 greater than 75 percent for interstate revenue or abolishes the safe
35 harbor factor applicable to VoIP service, this method shall become
36 void and of no effect, in which case a VoIP service supplier may
37 use an alternative method approved in advance by the board, which
38 shall be available to all VoIP service suppliers. The FCC safe
39 harbor factor applicable to VoIP service, as described in this
40 subparagraph, is used solely as a mechanism to calculate the

1 charges not subject to the surcharge for VoIP service and is not
2 necessarily reflective of the intrastate portion of VoIP service. The
3 use of the FCC safe harbor factor authorized by this subdivision
4 shall not be interpreted to permit application of any intrastate
5 requirement, other than the surcharge imposed under this part,
6 upon VoIP service suppliers.

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

9 (3) If a service supplier reasonably relies upon books and
10 records kept in the regular course of business or any documentation
11 that satisfies the reasonable and verifiable method, then the service
12 supplier's determination of the portion of the billed amount
13 attributable to services not subject to the surcharge shall be
14 rebuttably presumed to be correct. The service supplier's choice
15 of books and records or other method and surcharge billing practice
16 shall also be rebuttably presumed to be fair and legal business
17 practices.

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

22 (c) The surcharge imposed shall be at the rate of one-half of 1
23 percent of the charges made for such services to and including
24 November 1, 1982, and thereafter at a rate fixed pursuant to Article
25 2 (commencing with Section 41030).

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

28 (e) The surcharge imposed shall not apply to either of the
29 following:

30 (1) In accordance with the Mobile Telecommunications Sourcing
31 Act (Public Law 106-252), which is incorporated herein by
32 reference, to any charges for mobile telecommunications services
33 billed to a customer where those services are provided, or deemed
34 provided, to a customer whose place of primary use is outside this
35 state. Mobile telecommunications services shall be deemed
36 provided by a customer's home service provider to the customer
37 if those services are provided in a taxing jurisdiction to the
38 customer, and the charges for those services are billed by or for
39 the customer's home service provider.

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

4 (f) For purposes of this section:

5 (1) “Charges for mobile telecommunications services” means
6 any charge for, or associated with, the provision of commercial
7 mobile radio service, as defined in Section 20.3 of Title 47 of the
8 Code of Federal Regulations, as in effect on June 1, 1999, or any
9 charge for, or associated with, a service provided as an adjunct to
10 a commercial mobile radio service, that is billed to the customer
11 by or for the customer’s home service provider, regardless of
12 whether individual transmissions originate or terminate within the
13 licensed service area of the home service provider.

14 (2) “Customer” means (A) the person or entity that contracts
15 with the home service provider for mobile telecommunications
16 services, or with a VoIP service provider for VoIP service, or (B)
17 if the end user of mobile telecommunications services or VoIP
18 service is not the contracting party, the end user of the mobile
19 telecommunications service or VoIP service. This paragraph applies
20 only for the purpose of determining the place of primary use. The
21 term “customer” does not include (A) a reseller of mobile
22 telecommunications service or VoIP communication service, or
23 (B) a serving carrier under an arrangement to serve the mobile
24 customer outside the home service provider’s licensed service
25 area.

26 (3) “Home service provider” means the facilities-based carrier
27 or reseller with which the customer contracts for the provision of
28 mobile telecommunications services.

29 (4) “Licensed service area” means the geographic area in which
30 the home service provider is authorized by law or contract to
31 provide commercial mobile radio service to the customer.

32 (5) “Mobile telecommunications service” means commercial
33 mobile radio service, as defined in Section 20.3 of Title 47 of the
34 Code of Federal Regulations, as in effect on June 1, 1999.

35 (6) “Place of primary use” means the street address
36 representative of where the customer’s use of the mobile
37 telecommunications service or VoIP service primarily occurs, that
38 must be:

39 (A) The residential street address or the primary business street
40 address of the customer.

1 (B) With respect to mobile telecommunications service, within
2 the licensed service area of the home service provider.

3 (7) (A) “Reseller” means a provider who purchases
4 telecommunications services or VoIP service from another
5 telecommunications service provider or VoIP service and then
6 resells the services, or uses the services as a component part of,
7 or integrates the purchased services into, a mobile
8 telecommunications service or VoIP service.

9 (B) “Reseller” does not include a serving carrier with which a
10 home service provider arranges for the services to its customers
11 outside the home service provider’s licensed service area.

12 (8) “Serving carrier” means a facilities-based carrier providing
13 mobile telecommunications service to a customer outside a home
14 service provider’s or reseller’s licensed area.

15 (9) “Taxing jurisdiction” means any of the several states, the
16 District of Columbia, or any territory or possession of the United
17 States, any municipality, city, county, township, parish,
18 transportation district, or assessment jurisdiction, or any other
19 political subdivision within the territorial limits of the United States
20 with the authority to impose a tax, charge, or fee.

21 (10) “VoIP service provider” means that provider of VoIP
22 service with whom the end user customer contracts for the
23 provision of VoIP services for the customer’s own use and not for
24 resale.

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

27 ~~41030. (a) The Department of Technology shall determine~~
28 ~~annually, on or before October 1, to be effective on January 1 of~~
29 ~~the following year, a surcharge pursuant to subdivision (b) that it~~
30 ~~estimates will produce sufficient revenue to fund the current fiscal~~
31 ~~year’s 911 costs.~~

32 ~~(b) The surcharge shall be determined by dividing the costs~~
33 ~~(including incremental costs) the Department of Technology~~
34 ~~estimates for the current fiscal year of 911 plans approved pursuant~~
35 ~~to Section 53115 of the Government Code, less the available~~
36 ~~balance in the State Emergency Telephone Number Account in~~
37 ~~the General Fund, by its estimate of the charges for intrastate~~
38 ~~telephone communications services, the intrastate portion of~~
39 ~~prepaid mobile telecommunications services, and VoIP service to~~
40 ~~which the surcharge will apply for the period of January 1 to~~

1 December 31, inclusive, of the next succeeding calendar year, but
2 in no event shall such surcharge rate in any year be greater than
3 three-quarters of 1 percent nor less than one-half of 1 percent. In
4 making its estimate of charges that are applicable to the intrastate
5 portion of prepaid mobile telecommunications services, the
6 Department of Technology shall multiply the surcharge by the
7 inverse of the interstate safe harbor percentage established by the
8 Federal Communications Commission for federal universal service
9 contribution purposes, consistent with paragraph (1) of subdivision
10 (b) of Section 42010.

11 (e) The Department of Technology shall notify the board of the
12 surcharge amount by October 15 of each year, commencing with
13 October 15, 2014. The board shall utilize the surcharge amount to
14 calculate the emergency telephone users surcharge component of
15 the prepaid MTS surcharge pursuant to paragraph (1) of subdivision
16 (b) and subdivision (d) of Section 42010.

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

19 41030. (a) The Office of Emergency Services shall determine
20 annually, on or before October 1, *to be effective on January 1 of*
21 *the following year*, a surcharge ~~rate~~ *pursuant to subdivision (b)*
22 *that it estimates will produce sufficient revenue to fund the current*
23 *fiscal year's 911 costs.* ~~The~~

24 (b) *The* surcharge ~~rate~~ shall be determined by dividing the costs
25 (including incremental costs) the Office of Emergency Services
26 estimates for the current fiscal year of 911 plans approved pursuant
27 to Section 53115 of the Government Code, less the available
28 balance *in* the State Emergency Telephone Number Account in
29 the General Fund, by its estimate of the charges for intrastate
30 telephone communications services and VoIP service to which the
31 surcharge will apply for the period of January 1 to December 31,
32 inclusive, of the next succeeding calendar year, but in no event
33 shall such surcharge rate in any year be greater than three-quarters
34 of 1 percent nor less than one-half of 1 percent. *In making its*
35 *estimate of charges that are applicable to the intrastate portion*
36 *of prepaid mobile telecommunications services, the Office of*
37 *Emergency Services shall multiply the surcharge by the inverse*
38 *of the interstate safe harbor percentage established by the Federal*
39 *Communications Commission for federal universal service*

1 contribution purposes, consistent with paragraph (1) of subdivision
2 (b) of Section 42010.

3 (c) The Office of Emergency Services shall notify the board of
4 the surcharge amount by October 15 of each year, commencing
5 with October 15, 2014. The board shall utilize the surcharge
6 amount to calculate the emergency telephone users surcharge
7 component of the prepaid MTS surcharge pursuant to paragraph
8 (1) of subdivision (b) and subdivision (d) of Section 42010.

9 (d) At least 30 days prior to determining the surcharge pursuant
10 to subdivision (a), the Office of Emergency Services shall prepare
11 a summary of the calculation of the proposed surcharge and make
12 it available to the public and on its Internet Web site. The summary
13 shall contain all of the following:

14 (1) The prior year revenues to fund 911 costs, including, but
15 not limited to, revenues from prepaid service.

16 (2) Projected expenses and revenues from all sources, including,
17 but not limited to, prepaid service to fund 911 costs.

18 (3) The rationale for adjustment to the surcharge determined
19 pursuant to subdivision (b), including, but not limited to, all
20 impacts from prepaid service surcharge collection.

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

23

24 PART 21. PREPAID MOBILE TELEPHONY SERVICES
25 SURCHARGE COLLECTION ACT

26

27 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

28

29 42000. This part shall be known, and may be cited, as the
30 Prepaid Mobile Telephony Services Surcharge Collection Act.

31 42002. The Legislature finds and declares all of the following:

32 (a) Maintaining effective and efficient communications services,
33 911 emergency systems, communications-related public policy
34 programs to promote universal service, and various local programs
35 across the state benefits all persons with access to the
36 telecommunications system.

37 (b) Providers of end-use communications services, including
38 providers of mobile voice telecommunications services, which the
39 Federal Communications Commission terms mobile telephony
40 service, are required to collect and remit communications taxes,

1 fees, and surcharges on various types of communication service
 2 revenues, as provided by existing state or local law.

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

6 (d) Prepaid mobile telephony services are an important and
 7 growing segment of the communications industry. Prepaid mobile
 8 telephony services are often the only means by which persons with
 9 low incomes can obtain limited access to the telecommunications
 10 system.

11 (e) To ensure equitable contributions from end-use consumers
 12 of postpaid and prepaid mobile telephony services in this state,
 13 there should be standardization with respect to the method used
 14 to collect communications taxes, fees, and surcharges from end-use
 15 consumers of prepaid mobile telephony services.

16 (f) Prepaid mobile telephony services are frequently sold by a
 17 third-party retailer that is not the provider of mobile telephony
 18 services, and collecting taxes, fees, and surcharges from prepaid
 19 consumers of mobile telephony services at the time of the retail
 20 transaction is necessary and the most efficient and competitively
 21 neutral means of collection.

22 (g) An equitable distribution mechanism is necessary to ensure
 23 that utility user taxes and other telecommunication charges are
 24 collected on behalf of cities and counties and are properly
 25 distributed to those jurisdictions.

26 42004. For purposes of this part, the following terms have the
 27 following meanings:

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

29 (b) “Emergency telephone users surcharge” means surcharges
 30 authorized pursuant to the Emergency Telephone Users Surcharge
 31 Act (Part 20 (commencing with Section 41001)) to be collected
 32 from prepaid consumers of mobile telephony services.

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

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

38 (e) “Local jurisdiction” or “local agency” means a city, county,
 39 or city and county, which includes a charter city, county, or city
 40 and county.

1 (f) “Mobile telephony service” and “mobile data service” have
2 the same meanings as defined in Section 224.4 of the Public
3 Utilities Code. “MTS” means mobile telephony service.

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

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

13 (i) “Prepaid mobile telephony services” means the right to utilize
14 a mobile device authorized by the Federal Communications
15 Commission for mobile telecommunications services or
16 information services, including the download of digital products
17 delivered electronically, content, and ancillary services, or both
18 telecommunications services and information services, that must
19 be purchased in advance of usage in predetermined units or dollars.
20 For these purposes, “telecommunications service” and “information
21 service” have the same meanings as defined in Section 153 of Title
22 47 of the United States Code.

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

26 (k) “Prepaid MTS surcharge” means the surcharge that consists
27 of the emergency telephone users surcharge and the Public Utilities
28 Commission surcharges, as calculated pursuant to subdivision (b)
29 of Section 42010, that is required to be collected by a seller from
30 a prepaid consumer.

31 (l) “Public Utilities Commission surcharges” means surcharges
32 authorized by the Public Utilities Commission to be billed and
33 collected from end-use consumers of wireless communications
34 services, and of which the commission provides the board with
35 notice pursuant to Section ~~316~~ 319 of the Public Utilities Code,
36 including:

37 (1) The California High-Cost Fund-A Administrative Committee
38 Fund program surcharge (Section 275.6 of the Public Utilities
39 Code).

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

4 (3) The Deaf and Disabled Telecommunications Program
5 Administrative Committee Fund surcharge (Section 2881 of the
6 Public Utilities Code).

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

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

11 (6) 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 (7) Public Utilities Commission reimbursement fees imposed
15 pursuant to Chapter 2.5 (commencing with Section 401) of Part 1
16 of Division 1 of the Public Utilities Code.

17 (m) “Retail transaction” means the purchase of prepaid mobile
18 telephony services, either alone or in combination with mobile
19 data services, from a seller for any purpose other than resale in the
20 regular course of business. For these purposes, a “purchase” means
21 any transfer of title or possession, exchange, or barter, conditional
22 or otherwise.

23 (n) “Seller” means a person that sells prepaid mobile telephony
24 service to a person in a retail transaction.

25

26 CHAPTER 2. THE PREPAID MOBILE TELEPHONY SERVICES
27 SURCHARGE

28

29 42010. (a) (1) On and after January 1, 2015, a prepaid MTS
30 surcharge shall be imposed on each prepaid consumer and shall
31 be collected by a seller from each prepaid consumer at the time of
32 each retail transaction in this state. The prepaid MTS surcharge
33 shall be imposed as a percentage of the sales price of each retail
34 transaction that occurs in this state.

35 (2) The prepaid MTS surcharge shall be in lieu of any charges
36 imposed pursuant to the Emergency Telephone Users Surcharge
37 Act (Part 20 (commencing with Section 41001)) and the Public
38 Utilities Commission surcharges for prepaid mobile telephony
39 services.

1 (b) The prepaid MTS surcharge shall be annually calculated by
2 the board by no later than November 1 of each year commencing
3 November 1, 2014, by adding the following:

4 (1) The surcharge rate established pursuant to Section 41030
5 as of October 1 of each year, which shall be the surcharge rate
6 established for intrastate telephone communication service in this
7 state multiplied by the inverse of the interstate wireless safe harbor
8 percentage established by the Federal Communications
9 Commission for federal universal service contribution purposes,
10 as these percentages may be revised from time to time.

11 (2) The Public Utilities Commission surcharges, established by
12 the commission pursuant to Section ~~316~~ 319 of the Public Utilities
13 Code, as of October 1 of each year, multiplied by the inverse of
14 the interstate wireless safe harbor percentage established by the
15 Federal Communications Commission for federal universal service
16 contribution purposes, as these percentages may be revised from
17 time to time.

18 (c) (1) The board shall post, for each local jurisdiction, the
19 combined total of the rates of prepaid MTS surcharge and the rate
20 or rates of local charges, as calculated pursuant to Section 42012,
21 that each local jurisdiction has adopted, not later than December
22 1 of each year, on its Internet Web site. The posted combined rate
23 shall be the rate that applies to all retail transactions during the
24 calendar year beginning January 1 following the posting.

25 (2) Notwithstanding paragraph (1), if a local agency notifies
26 the board pursuant to subdivision (b) of Section 42012 that the
27 posted rate is inaccurate or it no longer imposes a local charge or
28 local charges or that the rate of its local charge or local charges
29 has decreased since the previous October 1 calculation, the board
30 shall promptly post a recalculated rate that is applicable to the
31 jurisdiction of that local agency. The seller shall not be required
32 to implement the changes any earlier than 60 days from the date
33 on which the board posts the new rate and provides written
34 notification to the seller. If the 60th day is not the first day of a
35 month, then the seller shall implement the changes on the first day
36 of the month following the month in which the 60th day occurs.
37 Nothing in this section modifies the notice obligations of Section
38 799 of the Public Utilities Code. However, beginning January 1,
39 2015, the notification and implementation requirements of

1 paragraphs (5) and (6) of subdivision (a) of Section 799 shall not
2 apply to prepaid mobile telephony services.

3 (3) A seller collecting the prepaid MTS surcharge and local
4 charges pursuant to this part and Part 21.2 (commencing with
5 Section 42100) may rely upon the accuracy of the information
6 posted on the board's Internet Web site in collecting the state
7 surcharge and local charges.

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

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

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

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

28 (h) A seller that has collected any amount of prepaid MTS
29 surcharge and local charges in excess of the amount of the
30 surcharge imposed by this part and actually due from a prepaid
31 consumer may refund that amount to the prepaid consumer, even
32 though the surcharge amount has already been paid over to the
33 board and no corresponding credit or refund has yet been secured.
34 Any seller making a refund of any charge to a prepaid consumer
35 may repay therewith the amount of the surcharge paid. The seller
36 may claim credit for that overpayment against the amount of
37 surcharge imposed by this part that is due upon any other quarterly
38 return, provided the credit is claimed in a return dated no later than
39 three years from the date of overpayment.

1 (i) (1) Every prepaid consumer of mobile telephony services
2 in this state is liable for the prepaid MTS surcharge and any local
3 charges until they have been paid to this state, except that payment
4 to a seller registered under this part relieves the prepaid consumer
5 from further liability for the surcharge and local charges. Any
6 surcharge collected from a prepaid consumer that has not been
7 remitted to the board shall be a debt owed to the state by the person
8 required to collect and remit the surcharge. Any local charge
9 collected from a prepaid consumer that has not been remitted to
10 the board shall be a debt owed jointly to the state and to the local
11 jurisdiction imposing the local charge by the person required to
12 collect and remit the local charge. Nothing in this part shall impose
13 any obligation upon a seller to take any legal action to enforce the
14 collection of the surcharge or local charge imposed by this section.

15 (2) A credit shall be allowed against, but shall not exceed, the
16 prepaid MTS surcharge and local charges imposed on any prepaid
17 consumer of mobile telephony services by this part to the extent
18 that the prepaid consumer has paid emergency telephone users
19 charges, state utility regulatory commission fees, state universal
20 service charges, or local charges on the purchase to any other state,
21 political subdivision thereof, or the District of Columbia. The credit
22 shall be apportioned to the charges against which it is allowed in
23 proportion to the amounts of those charges.

24 42012. (a) A local agency that has enacted a local charge that
25 is applicable to prepaid mobile telephony service, or in the future
26 enacts a new or increased local charge, shall enter into a contract
27 with the board for the board to perform the functions set forth in
28 Section 42103 and that requires the local agency to provide the
29 board with written notice of the amount of the local 911 charge,
30 as set out in Section 42102.5, or the applicable tiered rate for a
31 utility user tax, as set out in Section 42102, on or before September
32 1, commencing September 1, 2014, and for each year thereafter.

33 (b) For each contract required in subdivision (a), the local
34 agency shall provide a certification to the board that its ordinance
35 applies its local charge to prepaid mobile telephony services and
36 that the local agency agrees to indemnify, and hold and save
37 harmless, the board, its officers, agents, and employees for any
38 and all liability for damages that may result from collection
39 pursuant to the contract required in subdivision (a).

1 (c) A local agency that has enacted local charges shall
2 immediately notify the board of any reduction or elimination of
3 charges that are applicable to prepaid mobile telephony services
4 pursuant to Section 42010.

5 42014. (a) For purposes of this part, a retail transaction occurs
6 in the state under any of the following circumstances:

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

9 (2) If paragraph (1) is not applicable, the prepaid consumer's
10 address is in the state (known address transaction). A
11 known-address transaction occurs in the state under any of the
12 following circumstances:

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

15 (B) If the prepaid consumer's address is known by the seller to
16 be in the state, including if the seller's records maintained in the
17 ordinary course of business, indicate that the prepaid consumer's
18 address is in the state and the records are not made or kept in bad
19 faith.

20 (C) The prepaid consumer provides an address during
21 consummation of the retail transaction that is in the state, including
22 an address provided with respect to the payment instrument if no
23 other address is available and the address is not given in bad faith.

24 (D) The mobile telephone number is associated with a location
25 in this state.

26 (b) (1) A retail transaction shall occur at only one location for
27 purposes of determining local charges. If the retail transaction is
28 a point-of-sale transaction, the consumption of, use of, or access
29 to, the prepaid mobile telephony service shall be presumed to be
30 at that location.

31 (2) If the retail transaction is a known-address transaction, the
32 location shall be as determined in descending order beginning with
33 subparagraph (A) of paragraph (2) of subdivision (a), if
34 subparagraph (A) of that paragraph is inapplicable, then pursuant
35 to subparagraph (B) of that paragraph, if both subparagraphs (A)
36 and (B) of that paragraph are inapplicable, then subparagraph (C)
37 of that paragraph, and if subparagraphs (A), (B), and (C) of that
38 paragraph are inapplicable, then subparagraph (D) of that
39 paragraph. In a known address transaction, the consumption of,

1 use of, or access to, the prepaid mobile telephony service shall be
2 presumed to be at the known address.

3 (c) (1) A seller that relies in good faith on geographical
4 information to match the location of a point-of-sale transaction to
5 the applicable prepaid MTS surcharge amount and local charges,
6 collects that amount from the prepaid consumer, and remits the
7 amount to the board in compliance with this part, shall not be liable
8 for any additional MTS surcharge or local charges and shall not
9 be required to refund any amounts collected and paid to the board
10 to the prepaid consumer.

11 (2) For a known-address transaction, the seller may collect the
12 prepaid MTS surcharge and local charges that correspond to the
13 five-digit postal ZIP Code of the prepaid consumer's address. A
14 seller that relies in good faith on information provided by the board
15 to match the five-digit postal ZIP Code of the prepaid consumer's
16 address to the applicable prepaid MTS surcharge and local charges
17 amount, collects that amount from the prepaid consumer, and
18 remits the amount to the board in compliance with this part, shall
19 not be liable for any additional MTS surcharge or local charges
20 and shall not be required to refund any amounts collected and paid
21 to the board to the prepaid consumer, even if the five-digit postal
22 ZIP Code of the prepaid consumer's address that the seller uses
23 corresponds to more than one local charge.

24 42016. The prepaid MTS surcharge and local charges are
25 imposed on the prepaid consumer of mobile telephony services
26 and not on the seller or on any prepaid MTS provider, except that
27 the seller shall collect and remit all of the prepaid MTS surcharges
28 and local charges pursuant to this part and Part 21.1 (commencing
29 with Section 42100).

30 42018. (a) If prepaid mobile telephony services are sold with
31 a mobile telephony service communication device, commonly
32 termed a cellular telephone, for a single, nonitemized price, then
33 the prepaid MTS surcharge and local charges shall apply to the
34 entire nonitemized price unless the seller elects to apply the
35 surcharge and local charges to either of the following:

36 (1) If the purchase price for the prepaid mobile telephony
37 services component of the bundled charge is disclosed to the
38 prepaid consumer on a receipt, invoice, or other written
39 documentation provided to the prepaid consumer, the prepaid MTS

1 surcharge and local charges may be calculated based upon that
 2 amount.

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

9 (b) If a minimal amount of prepaid mobile telephony service is
 10 sold for a single, nonitemized price with a mobile telephony service
 11 communications device the seller may elect not to apply the prepaid
 12 MTS surcharge or local charges to the transaction. For these
 13 purposes, a service allotment denominated as 10 minutes or less,
 14 or five dollars (\$5) or less, is a minimal amount.

15

16 CHAPTER 3. ADMINISTRATION

17

18 42020. (a) (1) The board shall administer and collect the
 19 prepaid MTS surcharge imposed by this part pursuant to the Fee
 20 Collection Procedures Law (Part 30 (commencing with Section
 21 55001)). For purposes of this part, the references in the Fee
 22 Collection Procedures Law to “fee” shall include the prepaid MTS
 23 surcharge imposed by this part, and references to “feepayer” shall
 24 include a person required to pay the surcharge imposed by this
 25 part, which includes the seller, who shall be required to register
 26 with the board.

27 (2) Notwithstanding Article 1.1 (commencing with Section
 28 55050) of Chapter 3 ~~of Division 2 of the Revenue and Taxation~~
 29 ~~Code, of Part 30~~, any person required, or that elects, to remit
 30 amounts due under Part 1 (commencing with Section 6001) ~~of~~
 31 ~~Division 2 of the Revenue and Taxation Code~~ by electronic funds
 32 transfer pursuant to Article 1.2 (commencing with Section 6479.3)
 33 ~~of Chapter 5 of Part 1~~ shall remit assessment amounts due under
 34 this section by electronic funds transfer.

35 (b) (1) The board may prescribe, adopt, and enforce regulations
 36 relating to the administration and enforcement of this part,
 37 including, but not limited to, collections, reporting, refunds, and
 38 appeals.

39 (2) The board may prescribe, adopt, and enforce any emergency
 40 regulations as necessary to implement this part. Any emergency

1 regulation prescribed, adopted, or enforced pursuant to this section
2 shall be adopted in accordance with Chapter 3.5 (commencing
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the
4 Government Code, and, for purposes of that chapter, including
5 Section 11349.6 of the Government Code, the adoption of the
6 regulation is an emergency and shall be considered by the Office
7 of Administrative Law as necessary for the immediate preservation
8 of the public peace, health and safety, and general welfare.

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

11 (d) The board shall establish procedures for sharing of
12 information, other than information protected under Section 19542,
13 related to the collection of the prepaid MTS surcharge upon the
14 request of the Public Utilities Commission or the Department of
15 Technology.

16 42021. The board shall establish remittance schedules and
17 methods for the prepaid MTS surcharge that utilize existing
18 methods established under the Sales and Use Tax Law (Part 1
19 (commencing with Section 6001)), including all of the following:

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

24 (b) On or before the last day of the month following each
25 quarterly period of three months, a return for the preceding
26 quarterly period shall be filed using electronic media with the
27 board.

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

30 42022. Every seller shall register with the board. The board
31 shall establish a method for registration of sellers under this part
32 that utilizes the existing registration process for a seller's permit
33 established pursuant to Section 6066 of the Sales and Use Tax
34 Law (Part 1 (commencing with Section 6001)). Every application
35 for registration shall be made upon a form prescribed by the board
36 and shall set forth the name under which the applicant transacts
37 or intends to transact business, the location of its place or places
38 of business, and such other information as the board may require.
39 An application for registration shall be authenticated in a form or
40 pursuant to methods as may be prescribed by the board.

1 42023. (a) The Prepaid Mobile Telephony Services Surcharge
 2 Fund is hereby created in the State Treasury. The Prepaid MTS
 3 911 Account and the Prepaid MTS PUC Account are hereby
 4 created in the fund. The Prepaid Mobile Telephony Services
 5 Surcharge Fund shall consist of all surcharges, interest, penalties,
 6 and other amounts collected and paid to the board pursuant to this
 7 part, less a deduction in an amount not to exceed 2 percent of the
 8 collected amounts to refund and reimburse the board for expenses
 9 incurred in the administration and collection of the prepaid MTS
 10 surcharge.

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

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

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

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

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

29
 30
 31
 32

PART 21.1. LOCAL PREPAID MOBILE TELEPHONY
 SERVICES COLLECTION ACT

33 42100. (a) This part shall be known and may be cited as the
 34 Local Prepaid Mobile Telephony Services Collection Act.

35 (b) The Legislature finds and declares all of the following:

36 (1) Maintaining effective and efficient communications services,
 37 911 emergency systems, communications-related public policy
 38 programs to promote universal service, and various local programs
 39 across the state benefit all persons with access to the
 40 telecommunications system.

1 (2) Providers of end-use communications services, including
2 providers of mobile voice telecommunications services, which the
3 Federal Communications Commission terms mobile telephony
4 service, are required to collect and remit utility users taxes and
5 local 911 or access charges (local charges) imposed by over 150
6 cities and counties in California on end-users of such mobile
7 telephony services, as required by existing state or local law.

8 (3) Local charges on telecommunication services represent an
9 important source of tax revenue for many cities and counties, and
10 are used to pay for such essential governmental services as public
11 safety, streets, parks, libraries, senior centers, and many more.

12 (4) Prepaid mobile telephony services are an important and
13 growing segment of the communications industry. Prepaid mobile
14 telephony services, unlike postpaid mobile telephony services, are
15 frequently sold by a third-party retailer that is not the provider of
16 mobile telephony services, and collecting local charges from
17 prepaid consumers of mobile telephony services at the time of the
18 retail transaction is necessary and the most efficient and
19 competitively neutral means for the collection of those local
20 charges.

21 (5) The collection of prepaid mobile telephony services by
22 third-party retailers and the remittance of those local charges to
23 the board involves administrative costs and responsibilities that
24 are unique to prepaid mobile telephony services, and therefore
25 justify unique reimbursement and tax rate simplification measures,
26 which are fair and reasonable.

27 (c) It is a matter of statewide concern that the local charges for
28 local prepaid mobile telephony services be collected in a uniform
29 manner in order for the collection to be fair and uniform on a
30 statewide basis.

31 (d) It is the intention of the Legislature that this part shall
32 preempt the provisions pertaining to the rate and collection
33 methodology contained in all local ordinances, rules, or regulations
34 concerning the imposition of a local charge upon the consumption
35 of prepaid mobile telephony services.

36 42101. For purposes of this part, all of the following definitions
37 shall apply:

38 (a) "Local charge" means the utility user taxes as described in
39 Section 42102, and charges for access to communication services

1 or to local “911” emergency telephone systems, as described in
2 Section 42102.5.

3 (b) “Prepaid mobile telephony services” has the same meaning
4 as that term is defined in the Prepaid Mobile Telephony Services
5 Surcharge Collection Act (Part 21 (commencing with Section
6 42000)).

7 42101.5. On and after January 1, 2015, and before _____, a local
8 charge imposed on the consumption of prepaid mobile telephony
9 services shall be collected from the prepaid consumer at the same
10 time and in the same manner as the prepaid MTS surcharge is
11 collected under Part 21 (commencing with Section 42000), in lieu
12 of collection of those local charges by the city, county, or city and
13 county, including a charter city, county, or city and county.
14 Through and including December 31, 2014, a prepaid MTS
15 provider may elect to remit the local charge based on the tax rate
16 of Section 42102 to the appropriate local taxing jurisdiction, and
17 those remittances shall be deemed to be in full compliance with
18 the local ordinance imposing a local charge on prepaid mobile
19 telephony service.

20 42102. (a) Notwithstanding any other law, on and after January
21 1, 2015, and before _____, the authority of a city, county, or city
22 and county, which includes a charter city, county, or city and
23 county, to impose a utility user tax rate on the consumption of
24 prepaid mobile telephony service in the city, county, or city and
25 county at the rate as specified in an ordinance authorized pursuant
26 to Section 7284.2 or any other law is suspended, and the utility
27 user tax rate to be applied instead during the period under any
28 ordinance as so adopted is the applicable of the following:

29 (1) In the case of a city, county, or city and county that has
30 adopted an ordinance to impose a utility user tax on the
31 consumption of prepaid communication services in the city, county,
32 or city and county at the rate of less than 1.5 percent, the rate shall
33 be 0 percent.

34 (2) In the case of a city, county, or city and county that has
35 adopted an ordinance to impose a utility user tax on the
36 consumption of prepaid communication services in the city, county,
37 or city and county at the rate of 1.5 percent or more but less than
38 2.5 percent, the rate shall be 1.5 percent.

39 (3) In the case of a city, county, or city and county that has
40 adopted an ordinance to impose a utility user tax on the

1 consumption of prepaid communication services in the city, county,
2 or city and county at the rate of 2.5 percent or more but less than
3 3.5 percent, the rate shall be 2.5 percent.

4 (4) In the case of a city, county, or city and county that has
5 adopted an ordinance to impose a utility user tax on the
6 consumption of prepaid communication services in the city, county,
7 or city and county at the rate of 3.5 percent or more but less than
8 4.5 percent, the rate shall be 3.5 percent.

9 (5) In the case of a city, county, or city and county that has
10 adopted an ordinance to impose a utility user tax on the
11 consumption of prepaid communication services in the city, county,
12 or city and county at the rate of 4.5 percent or more but less than
13 5.5 percent, the rate shall be 4.5 percent.

14 (6) In the case of a city, county, or city and county that has
15 adopted an ordinance to impose a utility user tax on the
16 consumption of prepaid communication services in the city, county,
17 or city and county at the rate of 5.5 percent or more but less than
18 6.5 percent, the rate shall be 5.5 percent.

19 (7) In the case of a city, county, or city and county that has
20 adopted an ordinance to impose a utility user tax on the
21 consumption of prepaid communication services in the city, county,
22 or city and county at the rate of 6.5 percent or more but less than
23 7.5 percent, the rate shall be 6.5 percent.

24 (8) In the case of a city, county, or city and county that has
25 adopted an ordinance to impose a utility user tax on the
26 consumption of prepaid communication services in the city, county,
27 or city and county at the rate of 7.5 percent or more but less than
28 9 percent, the rate shall be 7.5 percent.

29 (9) In the case of a city, county, or city and county that has
30 adopted an ordinance to impose a utility user tax on the
31 consumption of prepaid communication services in the city, county,
32 or city and county at the rate of 9 percent or more, the rate shall
33 be 9 percent.

34 (b) Subdivision (a) is a self-executing provision that operates
35 without regard to any decision or act on the part of any city, county,
36 or city and county. A change in a utility user tax rate resulting
37 from either the suspension of, or the termination of the suspension
38 of, a utility user rate adopted by a city, county, or city and county
39 set forth in subdivision (a) is not subject to voter approval under
40 either 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 utility user tax at any rate
 3 on the consumption of communication services, including a utility
 4 user tax on the consumption of prepaid mobile telephony service,
 5 except that during the period on and after January 1, 2015, and
 6 before _____, any utility user tax rate on prepaid mobile telephony
 7 service under any ordinance as so adopted shall be the applicable
 8 rate specified in subdivision (a).

9 (d) On and after January 1, 2015, and before _____, this part
 10 shall be all of the following:

11 (1) The exclusive method for both of the following:

12 (A) Collecting the local utility user taxes, local 911 charges,
 13 and any other local charges imposed on customers using prepaid
 14 communication services.

15 (B) Defining the scope of the tax or charge.

16 (2) The substitution for the utility user tax rate set out in the
 17 local ordinance with the applicable tiered rate as established by
 18 the Legislature. This part shall not preempt, limit, or affect the
 19 general authority of local jurisdictions to impose a utility user tax,
 20 local 911 charge, or any other local charges.

21 42102.5. (a) Notwithstanding any other law, on and after
 22 January 1, 2015, and before _____, the authority of a city, county,
 23 or city and county, which includes a charter city, county, or city
 24 and county, to impose a charge, that applies to prepaid mobile
 25 telephony service, for access to communication services or access
 26 to local “911” emergency telephone systems in the city, county,
 27 or city and county at the rate as specified in an ordinance is
 28 suspended, and the rate to be applied instead during that period
 29 under any ordinance as so adopted is the applicable of the
 30 following:

31 (1) In the case of a city, county, or city and county that has
 32 adopted an ordinance to impose a charge, that applies to prepaid
 33 mobile telephony service, for access to communication services
 34 or access to local “911” emergency telephone systems in the city,
 35 county, or city and county at the rate of less than _____ dollars
 36 (\$_____) per month per access line, including any adjustments for
 37 inflation, the rate shall be 0 percent.

38 (2) In the case of a city, county, or city and county that has
 39 adopted an ordinance to impose a charge, that applies to prepaid
 40 mobile telephony service, for access to communication services

1 or access to local “911” emergency telephone systems in the city,
2 county, or city and county at the rate of ____ dollars (\$____) per
3 month per access line, including any adjustments for inflation, or
4 more but less than ____ dollars (\$____) per month per access line,
5 including any adjustments for inflation, the rate shall be the
6 percentage obtained by dividing ____ by fifty, rounded up to the
7 nearest one-tenth of 1 percent.

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

15 (c) Notwithstanding subdivision (a), a city, county, or city and
16 county may levy, increase, or extend a charge at any rate, that
17 applies to prepaid mobile telephony services, for access to
18 communication services or access to local “911” emergency
19 telephone systems in the city, county, or city and county, except
20 that during the period on and after January 1, 2015, and before
21 ____, any charge on prepaid mobile telephony service under any
22 ordinance as so adopted shall be the applicable rate specified in
23 subdivision (a).

24 42103. (a) The board shall perform all functions incident to
25 the collection of the local charges of a city, county, or a city and
26 county, and shall collect and administer the local charges in the
27 manner prescribed for the collection of the prepaid MTS surcharge
28 in the Prepaid Mobile Telephony Services Surcharge and Collection
29 Act (Part 21 (commencing with Section 42000)), subject to the
30 limitations set forth in subdivisions (d), (e), and (f) of this section,
31 and subdivision (a) of Section 42105.

32 (b) All local charges collected by the board shall be deposited
33 in the Local Charges for Prepaid Mobile Telephony Services Fund
34 which is hereby created in the State Treasury, and shall be held in
35 trust for the local taxing jurisdiction, and shall not be used for any
36 other purpose. Local charges shall consist of all taxes, charges,
37 interest, penalties, and other amounts collected and paid to the
38 board, less a deduction in an amount not to exceed 2 percent of
39 the collected amounts to refund and reimburse the board for
40 expenses incurred in the administration and collection of the local

1 charges. The board shall transmit the funds to the local jurisdictions
2 periodically as promptly as feasible. The transmittals required
3 under this section shall be made at least once in each calendar
4 quarter. The board shall furnish a quarterly statement indicating
5 the amounts paid and withheld.

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

9 (d) The board's audit duties under this part shall be limited to
10 verification that the seller complied with paragraphs (2) and (3)
11 of subdivision (c) of Section 42014.

12 (e) The board may contract with a third party, pursuant to
13 Section 55303, but for purposes of this part, solely in connection
14 with the following board duties:

15 (1) To allocate and transmit collected local charges in the
16 Prepaid Mobile Telephony Services Surcharge Fund pursuant to
17 subdivision (b) to the appropriate local jurisdictions.

18 (2) To audit proper collection and remittance of the local charge
19 pursuant to subdivision (d).

20 (3) To respond to requests from sellers, customers, boards, and
21 others regarding issues pertaining to local charges that are within
22 the scope of the board's duties.

23 (f) For purposes of this part, any third-party contract under
24 subdivision (e) shall be subject to the following limitations:

25 (1) Any third party shall, to the same extent as the board, be
26 subject to subdivision (b) of Section 55381, relating to unlawful
27 disclosures.

28 (2) No third-party contract shall provide, in whole or in part, in
29 any manner a contingent fee arrangement as payment for services
30 rendered. For purposes of this section, "contingent fee" includes,
31 but is not limited to, a fee that is based on a percentage of the tax
32 liability reported on a return, a fee that is based on a percentage
33 of the taxes owed, or a fee that depends on the specific tax result
34 attained.

35 (3) The board shall not perform or contract with any third party
36 to perform any duty under subdivision (e) if the same duty has
37 previously been or is currently being performed by the board
38 individually or pursuant to another third-party contract for the
39 same ordinance, tiered rate, audit, refund claim, or local charge
40 request in the same tax period.

1 42105. (a) The city, county, or city and county that has adopted
2 an ordinance to impose a charge that applies to prepaid mobile
3 telephony service shall be solely responsible for:

4 (1) Defending any claim regarding the validity of the ordinance
5 in its application to prepaid mobile telephony service.

6 (2) Interpreting any provision of the ordinance, except to the
7 extent specifically superseded by this statute.

8 (3) Responding to claims for refund, including claims of
9 exemption under the ordinance.

10 (b) A consumer may rebut the presumed location of the retail
11 transaction, as provided in subdivision (b) of Section 42014, by
12 filing a claim and declaration under penalty of perjury on a form
13 established by the city or county clerk of the local jurisdiction
14 indicating the actual location of the retail sale. The claim shall be
15 processed in accordance with the provisions of the local ordinance
16 that allows the claim to be filed. A customer that is exempt from
17 the local charge under the local ordinance may file a claim for a
18 refund from the local jurisdiction in accordance with the refund
19 provisions of the local ordinance.

20 (c) In connection with any actions or claims relating to or arising
21 from the invalidity of a local tax ordinance, in whole or in part,
22 the seller shall not be liable to any customer as a consequence of
23 collecting the tax. In the event a local jurisdiction is ordered to
24 refund the tax, it shall be the sole responsibility of the local
25 jurisdiction to refund the tax. In any action seeking to enjoin
26 collection of a local charge by a seller, in any action seeking
27 declaratory relief concerning a local charge, in any action seeking
28 a refund of a local charge, or in any action seeking to otherwise
29 invalidate a local charge, the sole necessary party defendant in the
30 action shall be the local jurisdiction on whose behalf the local
31 charge is collected, and the seller collecting the local charge shall
32 not be named as a party in the action.

33 42106. (a) For purposes of this section:

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

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

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

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

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

11 (2) As promptly as feasible after the board receives the city’s,
12 county’s, or city and county’s request, the board shall transmit to
13 the city, county, or city and county the offset portion as part of the
14 board’s periodic transmittal of local charges.

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

21 (c) The board shall not transmit the offset portion of the refund
22 to the city, county, or city and county if that transmittal would
23 reduce or delay either the board’s payment of the refund to the
24 taxpayer or the board’s periodic transmittals of local charges to
25 other cities, counties, or city and county.

26 42107. The city, county, or city and county shall pay to the
27 board its costs of preparation to administer the collection of local
28 charges. The city, county, or city and county shall pay such costs
29 monthly as incurred and billed by the board. The costs include all
30 preparatory costs, including costs of developing procedures,
31 programming for data processing, developing and adopting
32 appropriate regulations, designing and printing of forms,
33 developing instructions for the board’s staff and for taxpayers, and
34 other necessary preparatory costs which shall include the board’s
35 direct and indirect costs as specified by Section 11256 of the
36 Government Code. Any disputes as to the amount of preparatory
37 costs incurred shall be resolved by the Director of Finance, and
38 his or her decision shall be final. The maximum amount of all
39 preparatory costs to be paid by the city, county, or city and county
40 shall not, in any event, exceed ____ thousand dollars (\$_____).

1 42108. (a) There shall be no recovery from the state for the
2 imposition of any unconstitutional or otherwise invalid local charge
3 that is collected pursuant to this part.

4 (b) If a final and nonappealable decision of a court of competent
5 jurisdiction determines that a local charge is unconstitutional or
6 otherwise invalid, the city, the county, or the city and county, as
7 the case may be, shall transfer to the board the revenues derived
8 from the unconstitutional or invalid local charge necessary to
9 reimburse claimants for the unconstitutional or invalid local charge
10 paid, including interest allowed under Section 6907. The board
11 shall deposit these revenues in a segregated impound account in
12 the Prepaid Mobile Telephony Services Surcharge Fund, and shall
13 administer any refunds necessitated in accordance with the Fee
14 Collection Procedures Law (Part 30 (commencing with Section
15 55001)).

16 42109. The board shall annually prepare a report showing the
17 amount of both reimbursed and unreimbursed costs incurred by it
18 in administering the collection of local charges pursuant to this
19 part.

20 42110. (a) Notwithstanding Section 55381, it is unlawful for
21 any person, other than an officer or employee of a county, city and
22 county, city, or district, who obtains access to information
23 contained in, or derived from, prepaid mobile telephony services
24 surcharge and local charge records of the board pursuant to
25 subdivision (b), to retain that information after that person's
26 contract with the county, city and county, city, or district has
27 expired.

28 (b) (1) When requested by resolution of the legislative body of
29 any county, city and county, city, or district, the board shall permit
30 any duly authorized officer or employee of the county, city and
31 county, city, or district, or other person designated by that
32 resolution, to examine all of the prepaid mobile telephony services
33 surcharge and local charge records of the board pertaining to the
34 ascertainment of those prepaid mobile telephony services surcharge
35 and local charges to be collected for the county, city and county,
36 city, or district by the board pursuant to contract entered into
37 between the board and the county, city and county, city, or district
38 pursuant to this part. Except as otherwise provided in this section,
39 this subdivision does not allow any officer, employee, or other
40 person authorized or designated by a county, city and county, city,

1 or district to examine any sales or transactions and use tax records
 2 of any taxpayer. The costs that are incurred by the board in
 3 complying with a request made pursuant to this subdivision shall
 4 be deducted by the board from those revenues collected by the
 5 board on behalf of the county, city and county, city, or district
 6 making the request.

7 (2) The resolution of the legislative body of the county, city and
 8 county, city, or district shall certify that any person designated by
 9 the resolution, other than an officer or employee, meets all of the
 10 following conditions:

11 (A) Has an existing contract with the county, city and county,
 12 city, or district to examine those prepaid mobile telephony services
 13 surcharge and local charge records.

14 (B) Is required by that contract to disclose information contained
 15 in, or derived from, those prepaid mobile telephony services
 16 surcharge and local charge records only to an officer or employee
 17 of the county, city and county, city, or district who is authorized
 18 by the resolution to examine the information.

19 (C) Is prohibited by that contract from performing consulting
 20 services for a retailer during the term of that contract.

21 (D) Is prohibited by that contract from retaining the information
 22 contained in, or derived from, those prepaid mobile telephony
 23 services surcharge and local charge records, after that contract has
 24 expired.

25 (3) Information obtained by examination of board records
 26 pursuant to this subdivision shall be used only for purposes related
 27 to the collection of the prepaid mobile telephony services surcharge
 28 and local charges by the board pursuant to the contract, or for
 29 purposes related to other governmental functions of the county,
 30 city and county, city, or district set forth in the resolution.

31 (c) If the board believes that any information obtained pursuant
 32 to subdivision (b) has been disclosed to any person not authorized
 33 or designated by the resolution of the legislative body of the county,
 34 city and county, city, or district, or has been used for purposes not
 35 permitted by subdivision (b), the board may impose conditions on
 36 access to its local charge records that the board considers
 37 reasonable, in order to protect the confidentiality of those records.

38 (d) Predecessors, successors, receivers, trustees, executors,
 39 administrators, assignees, and guarantors, if directly interested,
 40 may be given information as to the items included in the measure

1 and amounts of any unpaid local charges or amounts of local
2 charges required to be collected, interest, and penalties.

3 SEC. 8. No inference shall be drawn from the enactment of
4 this act with respect to any remittance requirements of a prepaid
5 MTS provider pursuant to the law as it existed prior to the
6 enactment of this act. Additionally, nothing in this act shall affect
7 any remittance requirements of a prepaid MTS provider for any
8 service other than prepaid mobile telephony services. Nothing in
9 this act shall affect the federal remittance requirements of a prepaid
10 MTS provider.

11 SEC. 9. It is the intent of the Legislature that the remittance
12 obligations of a prepaid MTS provider shall continue to remain
13 subject to the law existing prior to the effective date of this act
14 until, pursuant to this act, those obligations are changed as of
15 January 1, 2015. However, the law existing prior to the effective
16 date of this act shall remain applicable for each of the following:

17 (a) The collection of surcharges, the liability for which accrued
18 prior to January 1, 2015.

19 (b) The making of any refunds and the effecting of any credits.

20 (c) The disposition of money collected.

21 (d) The commencement of any action or proceeding pursuant
22 to this part.

23 SEC. 10. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 SEC. 11. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to provide a standardized collection mechanism as soon
37 as possible by which state and local charges are collected from
38 end-users of prepaid mobile telephony services, thereby permitting
39 needed financial support for programs necessary to serve the public

- 1 or telecommunications users, it is necessary that this act take effect
- 2 immediately.

O