

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE AUGUST 22, 2013

AMENDED IN SENATE AUGUST 14, 2013

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

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**ASSEMBLY BILL**

**No. 300**

**Introduced by Assembly Member Perea**

February 12, 2013

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An act to amend, repeal, and add Sections 224.4 and 431 of, and to add and repeal Section 319 of, the Public Utilities Code, and to amend Section 41020 of, to amend, repeal, and add Section 41030 of, to add Section 41020.5 to, and to add and repeal Part 21 (commencing with Section ~~42000~~ 42001) and Part 21.1 (commencing with Section 42100) of 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 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 (*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, and to notify the State Board of Equalization and the Office of Emergency Services of the amounts and the computation method used to determine the amounts, which would be adjusted, as specified, and together would be the PUC surcharges.

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 Moore Universal Telephone Service Act establishes the Universal Lifeline Telephone Service program in order to provide low-income households with access to affordable basic residential telephone service. Existing decisions of the PUC exempt lifeline services from the PUC's reimbursement fee and the 6 end-user surcharges that fund the state's 6 universal service programs.*

*This bill would exempt the purchase in a retail transaction in this state of prepaid mobile telephony services, either alone or in combination with mobile data or other services, by a consumer from the prepaid MTS surcharge and specified local charges if certain conditions are met, including that the prepaid consumer is certified as eligible for the state lifeline program or federal lifeline program.*

The bill would require the 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, 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, 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 bill would repeal these provisions on January 1, 2018.

(4) 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.

(5) 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.

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

6 (c) “Mobile satellite telephone service” means voice  
7 communication to end users over a mobile satellite service  
8 involving the provision of commercial mobile radio service,  
9 pursuant to Parts 20 and 25 of Title 47 of the Code of Federal  
10 Regulations.

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

23 (e) This section shall remain in effect only until January 1, 2018,  
24 and as of that date is repealed, unless a later enacted statute, that  
25 is enacted before January 1, 2018, deletes or extends that date.

26 SEC. 2. Section 224.4 is added to the Public Utilities Code, to  
27 read:

28 224.4. (a) “Mobile data service” means the delivery of  
29 nonvoice information to a mobile device and includes nonvoice  
30 information communicated to a mobile telephony services handset,  
31 nonvoice information communicated to handheld personal digital  
32 assistant (PDA) devices and laptop computers, and mobile paging  
33 service carriers offering services on pagers and two-way messaging  
34 devices. Unless specified, “mobile data service” does not include  
35 nonvoice information communicated through a wireless local area  
36 network operating in the unlicensed radio bands, commonly known  
37 as a “Wi-Fi” network.

38 (b) “Mobile paging service” means the transmission of coded  
39 radio signals for the purpose of activating specific small radio

1 receivers designed to be carried by a person and to give an aural,  
2 visual, or tactile indication when activated.

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

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

18 (e) This section shall become operative on January 1, 2018.

19 SEC. 3. Section 319 is added to the Public Utilities Code, to  
20 read:

21 319. (a) The commission shall annually, on or before October  
22 1 of each year, commencing October 1, 2014, compute a  
23 reimbursement fee as a percentage of the sales price for prepaid  
24 mobile telephony services, to be effective on January 1 of the  
25 following year and to be collected and remitted pursuant to the  
26 Prepaid Mobile Telephony Services Surcharge Collection Act (Part  
27 21 (commencing with Section ~~42000~~ 42001) of Division 2 of the  
28 Revenue and Taxation Code). On or before October 8 of each year,  
29 commencing October 8, 2014, the commission shall post notice  
30 of the reimbursement fee on its Internet Web site and notify both  
31 the Office of Emergency Services and the State Board of  
32 Equalization of this information as well as the computation method  
33 used to determine the reimbursement fee.

34 (b) The commission shall annually, on or before October 1 of  
35 each year, commencing October 1, 2014, compute the cumulative  
36 amount of the telecommunications universal service surcharges  
37 as a percentage of the sales price for prepaid mobile telephony  
38 services, to be effective on January 1 of the following year and to  
39 be collected and remitted pursuant to the Prepaid Mobile Telephony  
40 Services Surcharge Collection Act (Part 21 (commencing with

1 Section ~~42000~~ 42001) of Division 2 of the Revenue and Taxation  
2 Code). On or before October 8 of each year, commencing October  
3 8, 2014, the commission shall post notice of the cumulative  
4 surcharge on its Internet Web site and notify both the Office of  
5 Emergency Services and the State Board of Equalization of this  
6 information as well as the computation method used to determine  
7 the cumulative surcharge.

8 (c) (1) Except for the fees *and surcharges* computed pursuant  
9 to subdivisions (a) and (b), this section neither restricts the  
10 commission's authority to adjust reimbursement fees or universal  
11 service ~~fees~~ *surcharges* nor requires that they only be adjusted  
12 once annually.

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

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

27 (4) If both upward and downward adjustments are made to  
28 reimbursement fees and universal service ~~fees~~ *surcharges*  
29 subsequent to December 31, the commission may adjust how  
30 collections are deposited into the reimbursement and universal  
31 service accounts so that overcollections or undercollections are  
32 minimized.

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



1 (6) At least 30 days prior to adopting any adjustment to a  
2 reimbursement fee or universal service-fee *surcharge* to be  
3 collected and remitted to the commission on both postpaid and  
4 prepaid intrastate service, the commission shall prepare a resolution  
5 or other public document proposing the fee *or surcharge*  
6 adjustment and explaining the calculation of the fee *or surcharge*.  
7 The commission shall make the resolution or other public document  
8 available to the public and on the commission's Internet Web site  
9 and it shall include all of the following:

10 (A) The prior year revenues from the fee *or surcharge*,  
11 including, but not limited to, revenues from prepaid service.

12 (B) Projected expenses and revenues from all sources, including,  
13 but not limited to, prepaid service, for the purposes of the fee *or*  
14 *surcharge*.

15 (C) The rationale for adjustment to the reimbursement fee or  
16 universal service-fee, *surcharge*, including, but not limited to, all  
17 impacts from prepaid service surcharge collection.

18 (d) The commission shall have enforcement authority to ensure  
19 the proper remittances over retail transactions, pursuant to the  
20 Prepaid Mobile Telephony Services Surcharge Collection Act (Part  
21 21 (commencing with Section ~~42000~~) 42001) of Division 2 of the  
22 Revenue and Taxation Code), where the prepaid mobile telephony  
23 services (prepaid MTS) provider is also the seller. The commission  
24 shall collaborate with the State Board of Equalization in exercising  
25 its enforcement authority pursuant to this subdivision.

26 (e) (1) Notwithstanding any amounts collected and remitted to  
27 ~~the commission~~ *State Board of Equalization* pursuant to the Prepaid  
28 Mobile Telephony Services Surcharge Collection Act (Part 21  
29 (commencing with Section ~~42000~~) 42001) of Division 2 of the  
30 Revenue and Taxation Code), ~~wireless and deposited in the Prepaid~~  
31 *MTS PUC Account created pursuant to Section 42023 of the*  
32 *Revenue and Taxation Code*, carriers providing prepaid mobile  
33 telephony service shall remit to the commission the fee established  
34 for telephone corporations pursuant to subdivision (a) of Section  
35 431 on the intrastate portion of the revenues received for prepaid  
36 mobile telephony service through December 31, 2015.

37 (2) Notwithstanding any amounts collected and remitted to the  
38 ~~commission~~ *State Board of Equalization* pursuant to the Prepaid  
39 Mobile Telephony Services Surcharge Collection Act (Part 21  
40 (commencing with Section ~~42000~~) 42001) of Division 2 of the

1 Revenue and Taxation Code), ~~wireless and deposited in the Prepaid~~  
2 *MTS PUC Account created pursuant to Section 42023 of the*  
3 *Revenue and Taxation Code*, carriers providing prepaid mobile  
4 telephony service shall remit to the commission the  
5 telecommunications universal service surcharges established for  
6 telephone corporations on the intrastate portion of the revenues  
7 received for prepaid mobile telephony service through December  
8 31, 2015.

9 (f) (1) This section does not relieve ~~wireless~~ carriers providing  
10 prepaid mobile telephony service of their continuing obligation to  
11 report prepaid mobile telephony service revenues to the  
12 commission in a manner prescribed by the commission.

13 (2) When reporting prepaid mobile telephony service revenues  
14 to the commission, ~~wireless~~ carriers providing prepaid mobile  
15 telephony service shall report the intrastate revenue portion subject  
16 to the reimbursement fee and the telecommunications universal  
17 service surcharges, as well as total state wireless revenue.

18 (3) *Reports made pursuant to this subdivision are subject to*  
19 *Section 583 and any related orders of the commission.*

20 (g) This section shall remain in effect only until January 1, ~~2020,~~  
21 *2018*, and as of that date is repealed, unless a later enacted statute,  
22 that is enacted before January 1, 2018, deletes or extends that date.

23 SEC. 4. Section 431 of the Public Utilities Code is amended  
24 to read:

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

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

1 revenues, and the amount of unencumbered funds from the  
2 preceding year.

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

5 (d) This section shall remain in effect only until January 1, 2018,  
6 and as of that date is repealed, unless a later enacted statute, that  
7 is enacted before January 1, 2018, deletes or extends that date.

8 SEC. 5. Section 431 is added to the Public Utilities Code, to  
9 read:

10 431. (a) The commission shall annually determine a fee to be  
11 paid by every electrical, gas, telephone, telegraph, water, sewer  
12 system, and heat corporation and every other public utility  
13 providing service directly to customers or subscribers and subject  
14 to the jurisdiction of the commission other than a railroad, except  
15 as otherwise provided in Article 2 (commencing with Section 421).

16 (b) The annual fee shall be established to produce a total amount  
17 equal to that amount established in the authorized commission  
18 budget for the same year, including adjustments for increases in  
19 employee compensation, other increases appropriated by the  
20 Legislature, and an appropriate reserve to regulate public utilities  
21 less the amount to be paid from special accounts or funds pursuant  
22 to Section 402, reimbursements, federal funds, and any other  
23 revenues, and the amount of unencumbered funds from the  
24 preceding year.

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

27 (d) On and after January 1, 1985, this article shall apply to  
28 radiotelephone utilities as defined in Section 4902 as those  
29 provisions read on December 31, 1984.

30 (e) This section shall become operative on January 1, 2018.

31 SEC. 6. Section 41020 of the Revenue and Taxation Code is  
32 amended to read:

33 41020. (a) A surcharge is hereby imposed on amounts paid  
34 by every person in the state for both of the following:

35 (1) (A) Intrastate telephone communication service in this state.

36 (B) Notwithstanding subparagraph (A), on and after January 1,  
37 2016, and before January 1, 2018, in lieu of the surcharge imposed  
38 under subparagraph (A), a surcharge shall be imposed on amounts  
39 paid for prepaid mobile telephony services pursuant to the Prepaid  
40 Mobile Telephony Services Surcharge Collection Act (Part 21

1 (~~commencing with Section 42000~~), and the calculation of the  
2 intrastate portion of charges for prepaid mobile telecommunications  
3 services shall be made pursuant to paragraph (1) of subdivision  
4 (b) of Section ~~42010~~ 42001).

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

10 (b) (1) Notwithstanding Section 41025, charges not subject to  
11 the surcharge may be calculated by a service supplier based upon  
12 books and records kept in the regular course of business, and, for  
13 purposes of calculating the interstate revenue portion not subject  
14 to the surcharge, a service supplier may also choose a reasonable  
15 and verifiable method from the following:

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

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

19 (C) For VoIP service only, the VoIP safe harbor factor  
20 established by the FCC to be used to calculate the service supplier’s  
21 contribution to the federal Universal Service Fund. The FCC safe  
22 harbor factor in effect for VoIP service on September 1 of each  
23 year shall apply for the period of January 1 to December 31,  
24 inclusive, of the next succeeding calendar year for purposes of this  
25 method. At the time the FCC establishes a safe harbor factor for  
26 the federal Universal Service Fund for VoIP service that is greater  
27 than 75 percent for interstate revenue or abolishes the safe harbor  
28 factor applicable to VoIP service, this method shall become void  
29 and of no effect, in which case a VoIP service supplier may use  
30 an alternative method approved in advance by the board, which  
31 shall be available to all VoIP service suppliers. The FCC safe  
32 harbor factor applicable to VoIP service, as described in this  
33 subparagraph, is used solely as a mechanism to calculate the  
34 charges not subject to the surcharge for VoIP service and is not  
35 necessarily reflective of the intrastate portion of VoIP service. The  
36 use of the FCC safe harbor factor authorized by this subdivision  
37 shall not be interpreted to permit application of any intrastate  
38 requirement, other than the surcharge imposed under this part,  
39 upon VoIP service suppliers.

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

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

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

16 (c) The surcharge imposed shall be at the rate of one-half of 1  
17 percent of the charges made for the services to and including  
18 November 1, 1982, and thereafter at a rate fixed pursuant to Article  
19 2 (commencing with Section 41030).

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

22 (e) The surcharge imposed shall not apply to either of the  
23 following:

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

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

37 (f) For purposes of this section:

38 (1) "Charges for mobile telecommunications services" means  
39 any charge for, or associated with, the provision of commercial  
40 mobile radio service, as defined in Section 20.3 of Title 47 of the

1 Code of Federal Regulations, as in effect on June 1, 1999, or any  
2 charge for, or associated with, a service provided as an adjunct to  
3 a commercial mobile radio service, that is billed to the customer  
4 by or for the customer's home service provider, regardless of  
5 whether individual transmissions originate or terminate within the  
6 licensed service area of the home service provider.

7 (2) "Customer" means (A) the person or entity that contracts  
8 with the home service provider for mobile telecommunications  
9 services, or with a VoIP service provider for VoIP service, or (B)  
10 if the end user of mobile telecommunications services or VoIP  
11 service is not the contracting party, the end user of the mobile  
12 telecommunications service or VoIP service. This paragraph applies  
13 only for the purpose of determining the place of primary use. The  
14 term "customer" does not include (A) a reseller of mobile  
15 telecommunications service or VoIP communication service, or  
16 (B) a serving carrier under an arrangement to serve the mobile  
17 customer outside the home service provider's licensed service  
18 area.

19 (3) "Home service provider" means the facilities-based carrier  
20 or reseller with which the customer contracts for the provision of  
21 mobile telecommunications services.

22 (4) "Licensed service area" means the geographic area in which  
23 the home service provider is authorized by law or contract to  
24 provide commercial mobile radio service to the customer.

25 (5) "Mobile telecommunications service" means commercial  
26 mobile radio service, as defined in Section 20.3 of Title 47 of the  
27 Code of Federal Regulations, as in effect on June 1, 1999.

28 (6) "Place of primary use" means the street address  
29 representative of where the customer's use of the mobile  
30 telecommunications service or VoIP service primarily occurs, that  
31 must be:

32 (A) The residential street address or the primary business street  
33 address of the customer.

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

36 (7) (A) "Reseller" means a provider who purchases  
37 telecommunications services or VoIP service from another  
38 telecommunications service provider or VoIP service and then  
39 resells the services, or uses the services as a component part of,

1 or integrates the purchased services into, a mobile  
2 telecommunications service or VoIP service.

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

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

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

15 (10) “VoIP service provider” means that provider of VoIP  
16 service with whom the end user customer contracts for the  
17 provision of VoIP services for the customer’s own use and not for  
18 resale.

19 (11) “*Prepaid mobile telephony services*” has the same meaning  
20 as in subdivision (j) of Section 42004.

21 SEC. 7. Section 41020.5 is added to the Revenue and Taxation  
22 Code, to read:

23 41020.5. Notwithstanding any other provision of this part, on  
24 and after January 1, 2015, and before January 1, 2016, a service  
25 supplier shall not collect the surcharge imposed under this part on  
26 the intrastate portion of charges made for prepaid mobile  
27 ~~telecommunications~~ *telephony* services, and the service supplier  
28 shall remit to the board an amount equal to the amount of the  
29 surcharge that would have otherwise been collected, reported, and  
30 remitted to the board under this part on the intrastate portion of  
31 the charges made for prepaid mobile ~~telecommunications~~ *telephony*  
32 services.

33 SEC. 8. Section 41030 of the Revenue and Taxation Code is  
34 amended to read:

35 41030. (a) The Office of Emergency Services shall determine  
36 annually, on or before October 1, to be effective on January 1 of  
37 the following year, a surcharge pursuant to subdivision (b) that it  
38 estimates will produce sufficient revenue to fund the current fiscal  
39 year’s 911 costs.

1 (b) (1) Commencing with the calculation made on October 1,  
2 2013, the surcharge rate shall be determined by dividing the costs  
3 (including incremental costs) the Office of Emergency Services  
4 estimates for the current fiscal year of 911 plans approved pursuant  
5 to Section 53115 of the Government Code, less the available  
6 balance in the State Emergency Telephone Number Account in  
7 the General Fund, by its estimate of the charges for intrastate  
8 telephone communications services and VoIP service to which the  
9 surcharge will apply for the period of January 1, 2014 to December  
10 31, 2014, inclusive, but in no event shall the surcharge rate in any  
11 year be greater than three-quarters of 1 percent or less than one-half  
12 of 1 percent.

13 (2) Commencing with the calculation made October 1, 2014,  
14 to be effective January 1, 2015, the surcharge shall be determined  
15 by dividing the costs (including incremental costs) the Office of  
16 Emergency Services estimates for the current fiscal year of 911  
17 plans approved pursuant to Section 53115 of the Government  
18 Code, less the available balance in the State Emergency Telephone  
19 Number Account in the General Fund, by its estimate of the charges  
20 for intrastate telephone communications services, the intrastate  
21 portion of prepaid *mobile* telephony services, and VoIP service to  
22 which the surcharge will apply for the period of January 1 to  
23 December 31, inclusive, of the next succeeding calendar year, but  
24 in no event shall the surcharge rate in any year be greater than  
25 three-quarters of 1 percent or less than one-half of 1 percent. In  
26 making its computation of the charges that are applicable to the  
27 intrastate portion of prepaid mobile telephony services, the Office  
28 of Emergency Services shall use the computation method  
29 developed by the Public Utilities Commission and reported to the  
30 Office of Emergency Services pursuant to subdivisions (a) and (b)  
31 of Section 319 of the Public Utilities Code.

32 (c) The Office of Emergency Services shall notify the board of  
33 the surcharge amount collected pursuant to this part and the  
34 surcharge amount applicable to prepaid mobile ~~telecommunications~~  
35 *telephony* services by October 15 of each year.

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



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

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

5 (3) The rationale for adjustment to the surcharge determined  
6 pursuant to subdivision (b), including, but not limited to, all  
7 impacts from ~~prepaid service surcharge collection~~. *the surcharge*  
8 *collected pursuant to Part 21 (commencing with Section 42001).*

9 (e) This section shall remain in effect only until January 1, 2018,  
10 and as of that date is repealed, unless a later enacted statute, that  
11 is enacted before January 1, 2018, deletes or extends that date.

12 SEC. 9. Section 41030 is added to the Revenue and Taxation  
13 Code, to read:

14 41030. (a) The Office of Emergency Services shall determine  
15 annually, on or before October 1, a surcharge rate that it estimates  
16 will produce sufficient revenue to fund the current fiscal year's  
17 911 costs. The surcharge rate shall be determined by dividing the  
18 costs (including incremental costs) the Office of Emergency  
19 Services estimates for the current fiscal year of 911 plans approved  
20 pursuant to Section 53115 of the Government Code, less the  
21 available balance in the State Emergency Telephone Number  
22 Account in the General Fund, by its estimate of the charges for  
23 intrastate telephone communications services and VoIP service to  
24 which the surcharge will apply for the period of January 1 to  
25 December 31, inclusive, of the next succeeding calendar year, but  
26 in no event shall such surcharge rate in any year be greater than  
27 three-quarters of 1 percent or less than one-half of 1 percent.

28 (b) At least 30 days prior to determining the surcharge pursuant  
29 to subdivision (a), the Office of Emergency Services shall prepare  
30 a summary of the calculation of the proposed surcharge and make  
31 it available to the public and on its Internet Web site. The summary  
32 shall contain all of the following:

33 (1) The prior year's revenues to fund 911 costs.

34 (2) Projected expenses and revenues from all sources.

35 (3) The rationale for adjustment to the surcharge determined  
36 pursuant to subdivision (b), including, but not limited to, all  
37 impacts from ~~prepaid service surcharge collection~~. *the surcharge*  
38 *collected pursuant to Part 21 (commencing with Section 42001)*  
39 *as it existed on December 31, 2017.*

40 (c) This section shall become operative on January 1, 2018.

1 SEC. 10. Part 21 (commencing with Section ~~42000~~ 42001) is  
2 added to Division 2 of the Revenue and Taxation Code, to read:

3  
4 PART 21. PREPAID MOBILE TELEPHONY SERVICES  
5 SURCHARGE COLLECTION ACT  
6

7 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS  
8

9 ~~42000.~~

10 42001. This part shall be known, and may be cited, as the  
11 Prepaid Mobile Telephony Services Surcharge Collection Act.

12 42002. The Legislature finds and declares all of the following:

13 (a) Maintaining effective and efficient communications services,  
14 911 emergency systems, communications-related public policy  
15 programs to promote universal service, and various local programs  
16 across the state benefits all persons with access to the  
17 telecommunications system.

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

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

27 (d) Prepaid mobile telephony services are an important and  
28 growing segment of the communications industry. Prepaid mobile  
29 telephony services are often the only means by which persons with  
30 low incomes can obtain limited access to the telecommunications  
31 system.

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

37 (f) Prepaid mobile telephony services are frequently sold by a  
38 third-party retailer that is not the provider of mobile telephony  
39 services, and collecting taxes, fees, and surcharges from prepaid  
40 consumers of mobile telephony services at the time of the retail

1 transaction is necessary and the most efficient and competitively  
2 neutral means of collection.

3 (g) An equitable distribution mechanism is necessary to ensure  
4 that utility user taxes and other telecommunication charges are  
5 collected on behalf of cities and counties and are properly  
6 distributed to those jurisdictions.

7 42004. For purposes of this part, the following terms have the  
8 following meanings:

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

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

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

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

19 (e) “Local jurisdiction” or “local agency” means a city, county,  
20 or city and county, which includes a charter city, county, or city  
21 and county.

22 (f) “Mobile data service” has the same meaning as defined in  
23 Section 224.4 of the Public Utilities Code.

24 (g) “Mobile telephony service” or “MTS” ~~means commercial~~  
25 ~~mobile radio service, as defined in Section 20.3 of Title 47 of the~~  
26 ~~Code of Federal Regulations, and shall include mobile telephony~~  
27 *has the same meaning* as defined in Section 224.4 of the Public  
28 Utilities Code.

29 (h) “Person” includes any individual, firm, partnership, joint  
30 venture, limited liability company, association, social club, fraternal  
31 organization, corporation, estate, trust, business trust, receiver,  
32 assignee for the benefit of creditors, trustee, trustee in bankruptcy,  
33 syndicate, the United States, this state, any city, county, city and  
34 county, municipality, district, or other political subdivision of the  
35 state, or any other group or combination acting as a unit.

36 (i) “Prepaid consumer” *or “consumer”* means a person who  
37 purchases prepaid mobile telephony services in a retail transaction.

38 (j) “Prepaid mobile telephony services” means the right to utilize  
39 a mobile device authorized by the Federal Communications  
40 Commission for mobile telecommunications services or

1 information services, including the download of digital products  
2 delivered electronically, content, and ancillary services, or both  
3 telecommunications services and information services, that must  
4 be purchased in advance of usage in predetermined units or dollars.  
5 For these purposes, “telecommunications service” and “information  
6 service” have the same meanings as defined in Section 153 of Title  
7 47 of the United States Code.

8 (k) “Prepaid MTS provider” means a person that provides  
9 prepaid mobile telephony services pursuant to a license issued by  
10 the Federal Communications Commission.

11 (l) “Prepaid MTS surcharge” means the surcharge that consists  
12 of the emergency telephone users surcharge and the Public Utilities  
13 Commission surcharges, as calculated pursuant to subdivision (b)  
14 of Section 42010, that is required to be collected by a seller from  
15 a prepaid consumer.

16 (m) “Public Utilities Commission surcharges” means surcharges  
17 authorized by the Public Utilities Commission to be billed and  
18 collected from end-use consumers of wireless communications  
19 services, and of which the commission provides the board with  
20 notice pursuant to Section 319 of the Public Utilities Code,  
21 including:

22 (1) The California High-Cost Fund-A Administrative Committee  
23 Fund program surcharge (Section 275.6 of the Public Utilities  
24 Code).

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

28 (3) The Deaf and Disabled Telecommunications Program  
29 Administrative Committee Fund surcharge (Section 2881 of the  
30 Public Utilities Code).

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

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

35 (6) The Moore Universal Telephone Service Act (Article 8  
36 commencing with Section 871) of Chapter 4 of Part 1 of Division  
37 1 of the Public Utilities Code).

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

1 (n) “Retail transaction” means the purchase of prepaid mobile  
 2 telephony services, either alone or in combination with mobile  
 3 data or other services, from a seller for any purpose other than  
 4 resale in the regular course of business. For these purposes, a  
 5 “purchase” means any transfer of title or possession, exchange, or  
 6 barter, conditional or otherwise.

7 (o) “Seller” means a person that sells prepaid mobile telephony  
 8 service to a person in a retail transaction.

9

10 CHAPTER 2. THE PREPAID MOBILE TELEPHONY SERVICES  
 11 SURCHARGE

12

13 42010. (a) (1) On and after January 1, 2015, a prepaid MTS  
 14 surcharge shall be imposed on each prepaid consumer and shall  
 15 be collected by a seller from each prepaid consumer at the time of  
 16 each retail transaction in this state. The prepaid MTS surcharge  
 17 shall be imposed as a percentage of the sales price of each retail  
 18 transaction that occurs in this state.

19 (2) On and after January 1, 2016, the prepaid MTS surcharge  
 20 shall be in lieu of any charges imposed pursuant to the Emergency  
 21 Telephone Users Surcharge Act (Part 20 (commencing with Section  
 22 41001)) and the Public Utilities Commission surcharges for prepaid  
 23 mobile telephony services.

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

27 (1) The surcharge rate reported pursuant to subdivision (c) of  
 28 Section 41030.

29 (2) The Public Utilities Commission’s reimbursement fee and  
 30 ~~cumulative surcharge~~, *telecommunications universal service*  
 31 *surcharges*, established by the Public Utilities Commission  
 32 pursuant to subdivisions (a) and (b) of Section 319 of the Public  
 33 Utilities Code.

34 (c) (1) The board shall post, for each local jurisdiction, the  
 35 combined total of the rates of prepaid MTS surcharge and the rate  
 36 or rates of local charges, as calculated pursuant to ~~Section 42012,~~  
 37 *Sections 42102 and 42102.5*, that each local jurisdiction has  
 38 adopted, not later than December 1 of each year, on its Internet  
 39 Web site. The posted combined rate shall be the rate that applies

1 to all retail transactions during the calendar year beginning April  
2 1 following the posting.

3 (2) Notwithstanding paragraph (1), if a local agency notifies  
4 the board pursuant to subdivision (d) of Section 42101.5 that the  
5 posted rate is inaccurate or it no longer imposes a local charge or  
6 local charges or that the rate of its local charge or local charges  
7 has decreased, the board shall promptly post a recalculated rate  
8 that is applicable to the jurisdiction of that local agency. The  
9 change shall become operative on the first day of the calendar  
10 quarter commencing more than 60 days from the date the local  
11 agency notifies the board of the inaccuracy or that it no longer  
12 imposes a local charge or that the rate of its local charge has  
13 decreased. Nothing in this section modifies the notice obligations  
14 of Section 799 of the Public Utilities Code. However, beginning  
15 January 1, 2015, the notification and implementation requirements  
16 of paragraphs (5) and (6) of subdivision (a) of Section 799 *of the*  
17 *Public Utilities Code* shall not apply to prepaid mobile telephony  
18 services.

19 (3) A seller collecting the prepaid MTS surcharge and local  
20 charges pursuant to this part and Part 21.1 (commencing with  
21 Section 42100) may rely upon the accuracy of the information  
22 posted on the board's Internet Web site in collecting the state  
23 surcharge and local charges.

24 (d) (1) Except for amounts retained pursuant to subdivision (e),  
25 all amounts of the prepaid MTS surcharge and local charges  
26 collected by sellers shall be remitted to the board pursuant to  
27 Chapter 3 (commencing with Section 42020).

28 (2) *A seller that is authorized to provide lifeline service under*  
29 *the state lifeline program or federal lifeline program, that sells*  
30 *prepaid mobile telephony services directly to the prepaid customer,*  
31 *shall remit the prepaid MTS surcharge to the board, less any*  
32 *applicable exemption from the surcharge that is applicable to the*  
33 *retail transaction pursuant to Section 42012.*

34 (e) A seller shall be permitted to deduct and retain an amount  
35 equal to 2 percent of the amounts that are collected by the seller  
36 from prepaid consumers for the prepaid MTS surcharge and local  
37 charges, except in a retail transaction that involves both of the  
38 following:

39 (1) The seller is the provider of prepaid mobile telephony  
40 services pursuant to Section 224.4 of the Public Utilities Code, or

1 a telephone corporation pursuant to Section 234 of the Public  
2 Utilities Code.

3 (2) The seller sells the prepaid mobile telephony services directly  
4 to the prepaid consumer.

5 (f) The amount of the combined prepaid MTS surcharge and  
6 local charges shall be separately stated on an invoice, receipt, or  
7 other similar document that is provided to the prepaid consumer  
8 of mobile telephony services by the seller, or otherwise disclosed  
9 electronically to the prepaid consumer, at the time of the retail  
10 transaction.

11 (g) The prepaid MTS surcharge is required to be collected by  
12 a seller and any amount unreturned to the prepaid consumer of  
13 mobile telephony services that is not owed as part of the surcharge,  
14 but was collected from the prepaid consumer under the  
15 representation by the seller that it was owed as part of the  
16 surcharge, constitute debts owed by the seller to this state. The  
17 local charge shall be collected by a seller, and any amount  
18 unreturned to the prepaid consumer of mobile telephony services  
19 that is not owed as part of the local charge but that was collected  
20 from the prepaid consumer under the representation by the seller  
21 that it was owed as part of the local charge constitutes a debt owed  
22 by the seller jointly to the state, for purposes of collection on behalf  
23 of, and payment to, the local jurisdiction and to the local  
24 jurisdiction imposing that local charge.

25 (h) A seller that has collected any amount of prepaid MTS  
26 surcharge and local charges in excess of the amount of the  
27 surcharge imposed by this part and actually due from a prepaid  
28 consumer may refund that amount to the prepaid consumer, even  
29 though the surcharge amount has already been paid over to the  
30 board and no corresponding credit or refund has yet been secured.  
31 Any seller making a refund of any charge to a prepaid consumer  
32 may repay therewith the amount of the surcharge paid.

33 (i) (1) Every prepaid consumer of mobile telephony services  
34 in this state is liable for the prepaid MTS surcharge and any local  
35 charges until they have been paid to this state, except that payment  
36 to a seller registered under this part relieves the prepaid consumer  
37 from further liability for the surcharge and local charges. Any  
38 surcharge collected from a prepaid consumer that has not been  
39 remitted to the board shall be a debt owed to the state by the person  
40 required to collect and remit the surcharge. Any local charge

1 collected from a prepaid consumer that has not been remitted to  
2 the board shall be a debt owed jointly to the state, for purposes of  
3 collection on behalf of, and payment to, the local jurisdiction and  
4 to the local jurisdiction imposing the local charge by the person  
5 required to collect and remit the local charge. Nothing in this part  
6 shall impose any obligation upon a seller to take any legal action  
7 to enforce the collection of the surcharge or local charge imposed  
8 by this section.

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

18 *(j) (1) A seller is relieved from liability to collect the prepaid*  
19 *MTS surcharge imposed by this part that became due and payable,*  
20 *insofar as the base upon which the surcharge is imposed is*  
21 *represented by accounts that have been found to be worthless and*  
22 *charged off for income tax purposes by the seller or, if the seller*  
23 *is not required to file income tax returns, charged off in accordance*  
24 *with generally accepted accounting principles. A seller that has*  
25 *previously paid the surcharge may, under rules and regulations*  
26 *prescribed by the board, take as a deduction on its return the*  
27 *amount found worthless and charged off by the seller. If any such*  
28 *accounts are thereafter in whole or in part collected by the seller,*  
29 *the amount so collected shall be included in the first return filed*  
30 *after such collection and the surcharge shall be paid with the*  
31 *return.*

32 (2) *The board may by regulation promulgate such other rules*  
33 *with respect to uncollected or worthless accounts as it shall deem*  
34 *necessary to the fair and efficient administration of this part.*

35 42012. (a) *For purposes of this section, “state lifeline*  
36 *program” means the program furnishing lifeline voice*  
37 *communication service pursuant to the Moore Universal Telephone*  
38 *Service Act (Article 8 (commencing with Section 871) of Chapter*  
39 *4 of Part 1 of Division 1 of the Public Utilities Code).*



1 (b) *The purchase in a retail transaction in this state of prepaid*  
2 *mobile telephony services, either alone or in combination with*  
3 *mobile data or other services, by a consumer is exempt from the*  
4 *prepaid MTS surcharge if all of the following apply:*

5 (1) *The prepaid consumer is certified as eligible for the state*  
6 *lifeline program or federal lifeline program.*

7 (2) *The seller is authorized to provide lifeline service under the*  
8 *state lifeline program or federal lifeline program.*

9 (3) *The exemption is applied only to the amount paid for the*  
10 *portion of the prepaid mobile telephony service that the lifeline*  
11 *program specifies is exempt from the surcharges and fees that*  
12 *comprise the prepaid MTS surcharge.*

13 42014. (a) For purposes of this part, a retail transaction occurs  
14 in the state under any of the following circumstances:

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

17 (2) If paragraph (1) is not applicable, the prepaid consumer's  
18 address is in the state (known address transaction). A  
19 known-address transaction occurs in the state under any of the  
20 following circumstances:

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

23 (B) If the prepaid consumer's address is known by the seller to  
24 be in the state, including if the seller's records maintained in the  
25 ordinary course of business indicate that the prepaid consumer's  
26 address is in the state and the records are not made or kept in bad  
27 faith.

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

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

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

39 (2) If the retail transaction is a known-address transaction, the  
40 location shall be as determined in descending order beginning with

1 subparagraph (A) of paragraph (2) of subdivision (a); if  
2 subparagraph (A) of that paragraph is inapplicable, then pursuant  
3 to subparagraph (B) of that paragraph; if both subparagraphs (A)  
4 and (B) of that paragraph are inapplicable, then subparagraph (C)  
5 of that paragraph; and if subparagraphs (A), (B), and (C) of that  
6 paragraph are inapplicable, then subparagraph (D) of that  
7 paragraph. In a known address transaction, the consumption of,  
8 use of, or access to, the prepaid mobile telephony service shall be  
9 presumed to be at the known address.

10 (c) (1) A seller that relies in good faith on information provided  
11 by the board to match the location of a point-of-sale transaction  
12 to the applicable prepaid MTS surcharge amount and local charges,  
13 that collects that amount from the prepaid consumer, and that  
14 remits the amount to the board in compliance with this part, shall  
15 not be liable for any additional MTS surcharge or local charges  
16 and shall not be required to refund any amounts collected and paid  
17 to the board to the prepaid consumer.

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

31 42018. (a) Except as provided in subdivisions (b) and (c), if  
32 prepaid mobile telephony services are sold in combination with  
33 mobile data services or any other services or products for a single  
34 price, then the prepaid MTS surcharge and local charges shall  
35 apply to the entire price.

36 (b) If prepaid mobile telephone services are sold with a mobile  
37 telephone service communication device, commonly termed a  
38 cellular telephone, for a single, nonitemized price, then the prepaid  
39 MTS surcharge and local charges shall apply to the entire  
40 nonitemized price, except if the purchase price for the cellular

1 phone component of the bundled charge is disclosed to the prepaid  
2 consumer on a receipt, invoice, or other written or electronic  
3 documentation provided to the prepaid consumer, the prepaid MTS  
4 surcharge and local charges may be calculated excluding the  
5 separately stated price of the cellular telephone.

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

12  
13 CHAPTER 3. ADMINISTRATION  
14

15 42020. (a) (1) The board shall administer and collect the  
16 prepaid MTS surcharge imposed by this part pursuant to the Fee  
17 Collection Procedures Law (Part 30 (commencing with Section  
18 55001)). For purposes of this part, the references in the Fee  
19 Collection Procedures Law to “fee” shall include the prepaid MTS  
20 surcharge imposed by this part, and references to “feepayer” shall  
21 include a person required to pay the surcharge imposed by this  
22 part, which includes the seller, who shall be required to register  
23 with the board.

24 (2) Notwithstanding Article 1.1 (commencing with Section  
25 55050) of Chapter 3 of Part 30, any person required, or that elects,  
26 to remit amounts due under Part 1 (commencing with Section  
27 6001) by electronic funds transfer pursuant to Article 1.2  
28 (commencing with Section 6479.3) of Chapter 5 of Part 1 shall  
29 remit prepaid MTS surcharge amounts due under this section by  
30 electronic funds transfer.

31 (b) (1) The board may prescribe, adopt, and enforce regulations  
32 relating to the administration and enforcement of this part,  
33 including, but not limited to, collections, reporting, refunds, and  
34 appeals.

35 (2) The board may prescribe, adopt, and enforce any emergency  
36 regulations as necessary to implement this part. Any emergency  
37 regulation prescribed, adopted, or enforced pursuant to this section  
38 shall be adopted in accordance with Chapter 3.5 (commencing  
39 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
40 Government Code, and, for purposes of that chapter, including

1 Section 11349.6 of the Government Code, the adoption of the  
2 regulation is an emergency and shall be considered by the Office  
3 of Administrative Law as necessary for the immediate preservation  
4 of the public peace, health and safety, and general welfare.

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

7 (d) The board shall establish procedures for sharing of  
8 information, other than information protected under Section 19542,  
9 related to the collection of the prepaid MTS surcharge upon the  
10 request of the Public Utilities Commission or the Office of  
11 Emergency Services.

12 42021. The board shall establish remittance schedules and  
13 methods for payment of the prepaid MTS surcharge that utilize  
14 existing methods established under the Sales and Use Tax Law  
15 (Part 1 (commencing with Section 6001)), including all of the  
16 following:

17 (a) The prepaid MTS surcharge, minus the amount retained by  
18 the seller pursuant to subdivision (e) of Section 42010, is due and  
19 payable to the board quarterly on or before the last day of the  
20 month following each calendar quarter.

21 (b) On or before the last day of the month following each  
22 calendar quarter, a return for the preceding calendar quarter shall  
23 be filed using electronic media with the board.

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

26 42022. Every seller shall register with the board. The board  
27 shall establish a method for registration of sellers under this part  
28 that utilizes the existing registration process for a seller's permit  
29 established pursuant to Section 6066 of the Sales and Use Tax  
30 Law (Part 1 (commencing with Section 6001)). Every application  
31 for registration shall be made upon a form prescribed by the board  
32 and shall set forth the name under which the applicant transacts  
33 or intends to transact business, the location of its place or places  
34 of business, and such other information as the board may require.  
35 An application for registration shall be authenticated in a form or  
36 pursuant to methods as may be prescribed by the board.

37 42023. (a) The Prepaid Mobile Telephony Services Surcharge  
38 Fund is hereby created in the State Treasury. The Prepaid MTS  
39 911 Account and the Prepaid MTS PUC Account are hereby  
40 created in the fund. The Prepaid Mobile Telephony Services

1 Surcharge Fund shall consist of all surcharges, interest, penalties,  
2 and other amounts collected and paid to the board pursuant to this  
3 part, less payments of refunds and reimbursements to the board  
4 for expenses incurred in the administration and collection of the  
5 prepaid MTS surcharge.

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

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

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

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

22 42024. ~~(a) This part shall remain in effect only until January~~  
23 ~~1, 2018, and as of that date is repealed, unless a later enacted~~  
24 ~~statute, that is enacted before January 1, 2018, deletes or extends~~  
25 ~~that date.~~

26 ~~(b) This part shall remain applicable for the collection of the~~  
27 ~~surcharge, the liability for which accrued prior to January 1, 2015;~~  
28 ~~the making of any refunds and the effecting of any credits; the~~  
29 ~~disposition of money collected; and the commencement of any~~  
30 ~~action or proceeding pursuant to this part.~~

31 SEC. 11. Part 21.1 (commencing with Section 42100) is added  
32 to Division 2 of the Revenue and Taxation Code, to read:

33

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

36

37 42100. (a) This part shall be known and may be cited as the  
38 Local Prepaid Mobile Telephony Services Collection Act.

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

1 (1) Maintaining effective and efficient communications services,  
2 911 emergency systems, communications-related public policy  
3 programs to promote universal service, and various local programs  
4 across the state benefit all persons with access to the  
5 telecommunications system.

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

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

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

26 (5) The collection of prepaid mobile telephony services by  
27 third-party sellers and the remittance of those local charges to the  
28 board involves administrative costs and responsibilities that are  
29 unique to prepaid mobile telephony services, and therefore justify  
30 unique reimbursement and tax rate simplification measures, which  
31 are fair and reasonable.

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

36 (d) It is the intention of the Legislature that this part shall  
37 preempt the provisions pertaining to the tax or charge rate, base,  
38 and method of collection contained in all local ordinances, rules,  
39 or regulations concerning the imposition of a local charge upon  
40 the consumption of prepaid mobile telephony services to the extent

1 those provisions are inconsistent with the provisions of this part  
 2 and Part 21 (commencing with Section ~~42000~~ 42001). It is not  
 3 the intent of the Legislature to otherwise preempt, limit, or affect  
 4 the general authority of local jurisdictions to impose a utility user  
 5 tax, local 911 charge, or any other local charges.

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

8 (a) “Local agency” means a city, county, or city and county,  
 9 which includes a charter city, county, or city and county.

10 (b) “Local charge” means the utility user taxes as described in  
 11 Section 42102, and charges for access to communication services  
 12 or to local “911” emergency telephone systems, as described in  
 13 Section 42102.5.

14 (c) “Ordinance” refers to an ordinance of a local agency  
 15 imposing a local charge, including any local enactment relating to  
 16 the filing of a refund or a claim arising under the ordinance.

17 (d) “Board,” “local jurisdiction,” “mobile telephony service,”  
 18 “person,” “prepaid consumer,” “Prepaid mobile telephony  
 19 services” ~~has service,~~ “prepaid MTS provider,” and “prepaid  
 20 MTS surcharge” have the same meaning as ~~that term is~~ those terms  
 21 are defined in the Prepaid Mobile Telephony Services Surcharge  
 22 Collection Act (Part 21 (commencing with Section ~~42000~~)  
 23 42001)).

24 42101.5. (a) On and after January 1, 2015, a local charge  
 25 imposed by a local agency on prepaid mobile telephony services  
 26 shall be collected from the prepaid consumer by a seller at the  
 27 same time and in the same manner as the prepaid MTS surcharge  
 28 is collected under Part 21 (commencing with Section ~~42000~~)  
 29 42001) if, on or before September 1, 2014, the local agency shall  
 30 enter into a contract with the board for the board to perform the  
 31 functions set forth in Section 42103. In the contract, the local  
 32 agency shall: (1) certify to the board that its ordinance applies its  
 33 local charge to prepaid mobile telephony services and that the local  
 34 agency agrees to indemnify, and hold and save harmless, the board,  
 35 its officers, agents, and employees for any and all liability for  
 36 damages that may result from collection pursuant to the contract;  
 37 and, (2) certify to the board the amount of the local 911 charge,  
 38 as set out in Section 42102.5, or the applicable tiered rate for a  
 39 utility user tax, as set out in Section 42102.

1 (b) In the event that a local agency adopts a new local charge  
 2 that is imposed on prepaid mobile telephony services after  
 3 September 1, 2014, the local agency shall enter into a contract  
 4 with the board to perform the functions set forth in Section 42103,  
 5 on or before December 1, with collection of the local charge to  
 6 commence April 1 of the next calendar year. In the contract, the  
 7 local agency shall certify to the board: (1) that its ordinance applies  
 8 its local charge to prepaid mobile telephony services and that the  
 9 local agency agrees to indemnify, and hold and save harmless, the  
 10 board, its officers, agents, and employees for any and all liability  
 11 for damages that may result from collection pursuant to the  
 12 contract; and, (2) the amount of the local 911 charge, as set out in  
 13 Section 42102.5, or the applicable tiered rate for a utility user tax,  
 14 as set out in Section 42102.

15 (c) In the event that a local agency increases its local charge  
 16 after September 1, 2014, the local agency shall provide the board  
 17 with written notice of the increased local charge on or before  
 18 December 1, with collection of the local charge to commence April  
 19 1 of the next calendar year.

20 (d) In the event that a local agency reduces or eliminates a local  
 21 charge on prepaid mobile telephony services, the local agency  
 22 shall provide the board with written notice pursuant to subdivision  
 23 (c) of Section 42010.

24 (e) Notwithstanding subdivision (a), through and including  
 25 December 31, 2014, a prepaid MTS provider may elect to remit  
 26 the local charge to the appropriate local taxing jurisdiction based  
 27 on the applicable tax rate of Section 42102, Section 42102.5, or  
 28 both, and those remittances shall be deemed to be in full  
 29 compliance with the local ordinance imposing a local charge on  
 30 prepaid mobile telephony service.

31 42102. (a) Notwithstanding any other law, on and after January  
 32 1, 2015, the authority of a city, county, or city and county, which  
 33 includes a charter city, county, or city and county, to impose a  
 34 utility user tax on the consumption of prepaid mobile telephony  
 35 service in the city, county, or city and county at the rate as specified  
 36 in an ordinance authorized pursuant to Section 7284.2 or any other  
 37 law is suspended, and the utility user tax rate to be applied instead  
 38 during the period under any ordinance as so adopted is the  
 39 applicable of the following:



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

6 (2) In the case of a city, county, or city and county that has  
7 adopted an ordinance to impose a utility user tax on the  
8 consumption of prepaid communication services in the city, county,  
9 or city and county at the rate of 1.5 percent or more but less than  
10 2.5 percent, the rate shall be 1.5 percent.

11 (3) In the case of a city, county, or city and county that has  
12 adopted an ordinance to impose a utility user tax on the  
13 consumption of prepaid communication services in the city, county,  
14 or city and county at the rate of 2.5 percent or more but less than  
15 3.5 percent, the rate shall be 2.5 percent.

16 (4) In the case of a city, county, or city and county that has  
17 adopted an ordinance to impose a utility user tax on the  
18 consumption of prepaid communication services in the city, county,  
19 or city and county at the rate of 3.5 percent or more but less than  
20 4.5 percent, the rate shall be 3.5 percent.

21 (5) In the case of a city, county, or city and county that has  
22 adopted an ordinance to impose a utility user tax on the  
23 consumption of prepaid communication services in the city, county,  
24 or city and county at the rate of 4.5 percent or more but less than  
25 5.5 percent, the rate shall be 4.5 percent.

26 (6) In the case of a city, county, or city and county that has  
27 adopted an ordinance to impose a utility user tax on the  
28 consumption of prepaid communication services in the city, county,  
29 or city and county at the rate of 5.5 percent or more but less than  
30 6.5 percent, the rate shall be 5.5 percent.

31 (7) In the case of a city, county, or city and county that has  
32 adopted an ordinance to impose a utility user tax on the  
33 consumption of prepaid communication services in the city, county,  
34 or city and county at the rate of 6.5 percent or more but less than  
35 7.5 percent, the rate shall be 6.5 percent.

36 (8) In the case of a city, county, or city and county that has  
37 adopted an ordinance to impose a utility user tax on the  
38 consumption of prepaid communication services in the city, county,  
39 or city and county at the rate of 7.5 percent or more but less than  
40 9 percent, the rate shall be 7.5 percent.

1 (9) In the case of a city, county, or city and county that has  
2 adopted an ordinance to impose a utility user tax on the  
3 consumption of prepaid communication services in the city, county,  
4 or city and county at the rate of 9 percent or more, the rate shall  
5 be 9 percent.

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

13 (c) Notwithstanding subdivision (a), a city, county, or city and  
14 county may levy, increase, or extend a utility user tax at any rate  
15 on the consumption of communication services, including a utility  
16 user tax on the consumption of prepaid mobile telephony service,  
17 except that during the period on and after January 1, 2015, any  
18 utility user tax rate on prepaid mobile telephony service under any  
19 ordinance as so adopted shall be the applicable rate specified in  
20 subdivision (a).

21 (d) On and after January 1, 2015, this part shall be all of the  
22 following:

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

24 (A) Collecting the local utility user taxes, local 911 charges,  
25 and any other local charges imposed on consumers using prepaid  
26 mobile telephony services.

27 (B) Defining the scope of the tax or charge with respect to  
28 prepaid mobile telephony services.

29 (2) The complete substitute for the utility user tax rate set out  
30 in the local ordinance with the applicable tiered rate as established  
31 by the Legislature.

32 (3) This part shall not preempt, limit, or affect the general  
33 authority of local jurisdictions to impose a utility user tax, local  
34 911 charge, or any other local charges.

35 42102.5. (a) Notwithstanding any other law, on and after  
36 January 1, 2015, the authority of a city, county, or city and county,  
37 which includes a charter city, county, or city and county, to impose  
38 a charge, that applies to prepaid mobile telephony service, for  
39 access to communication services or access to local “911”  
40 emergency telephone systems in the city, county, or city and county

1 at the rate as specified in an ordinance is suspended, and the rate  
2 to be applied instead during that period under any ordinance as so  
3 adopted is the applicable of the following:

4 (1) In the case of a city, county, or city and county that has  
5 adopted an ordinance to impose a charge that applies to prepaid  
6 mobile telephony service for access to communication services or  
7 access to local “911” emergency telephone systems in the city,  
8 ~~county, or city and county at the rate of less than \_\_\_\_\_ dollars~~  
9 ~~(\$\_\_\_\_\_) per month per access line, including any adjustments for~~  
10 *county, or city and county at the rate of less than one dollar (\$1)*  
11 *per month per access line, including any adjustments for* inflation,  
12 the rate shall be 0 percent.

13 (2) In the case of a city, county, or city and county that has  
14 adopted an ordinance to impose a charge that applies to prepaid  
15 mobile telephony service for access to communication services or  
16 access to local “911” emergency telephone systems in the city,  
17 ~~county, or city and county at the rate of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per~~  
18 ~~county, or city and county at a specified percentage or at the rate~~  
19 ~~of one dollar (\$1) per month per access line, including any~~  
20 ~~adjustments for inflation, or more but less than \_\_\_\_\_ dollars~~  
21 ~~(\$\_\_\_\_\_) per month per access line, including any adjustments for~~  
22 ~~inflation, the rate shall be the percentage obtained by dividing~~  
23 ~~\_\_\_\_\_ by fifty, rounded up to the nearest one-tenth of 1 percent.~~  
24 *more, the rate shall be the specified percentage or the rate obtained*  
25 *by dividing the dollar amount by 50, rounded to the nearest*  
26 *one-tenth of 1 percent.*

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

34 (c) Notwithstanding subdivision (a), a city, county, or city and  
35 county may levy, increase, or extend a charge at any rate, that  
36 applies to prepaid mobile telephony services, for access to  
37 communication services or access to local “911” emergency  
38 telephone systems in the city, county, or city and county, except  
39 that during the period on and after January 1, 2015, any charge on

1 prepaid mobile telephony service under any ordinance as so  
2 adopted shall be the applicable rate specified in subdivision (a).

3 42103. (a) The board shall perform all functions incident to  
4 the collection of the local charges of a city, county, or a city and  
5 county, and shall collect and administer the local charges in the  
6 manner prescribed for the collection of the prepaid MTS surcharge  
7 in the Prepaid Mobile Telephony Services Surcharge Collection  
8 Act (Part 21 (commencing with Section ~~42000~~) 42001)), subject  
9 to the limitations set forth in Section 42105. For purposes of this  
10 part, the references in the Fee Collection Procedures Law to “fee”  
11 shall include the local charge imposed by this part, and references  
12 to “feepayer” shall include a person required to pay the local charge  
13 imposed by this part, which includes the seller.

14 (b) All local charges collected by the board shall be deposited  
15 in the Local Charges for Prepaid Mobile Telephony Services Fund  
16 which is hereby created in the State Treasury, and shall be held in  
17 trust for the local taxing jurisdiction, and shall not be used for any  
18 other purpose. Local charges shall consist of all taxes, charges,  
19 interest, penalties, and other amounts collected and paid to the  
20 board, less payments for refunds and reimbursement to the board  
21 for expenses incurred in the administration and collection of the  
22 local charges. The board shall transmit the funds to the local  
23 jurisdictions periodically as promptly as feasible. The transmittals  
24 required under this section shall be made at least once in each  
25 calendar quarter. The board shall furnish a quarterly statement  
26 indicating the amounts paid and withheld.

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

30 (d) The board’s audit duties under this part shall be limited to  
31 verification that the seller complied with this part.

32 (e) The board may contract with a third party for purposes of  
33 this part, solely in connection with the following board duties:

34 (1) To allocate and transmit collected local charges in the Local  
35 Charges for Prepaid Mobile Telephony Services Fund pursuant to  
36 subdivision (b) to the appropriate local jurisdictions.

37 (2) To audit proper collection and remittance of the local charge  
38 pursuant to this part.

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

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

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

9 (2) A third-party contract shall not provide, in whole or in part,  
10 in any manner a contingent fee arrangement as payment for services  
11 rendered. For purposes of this section, "contingent fee" includes,  
12 but is not limited to, a fee that is based on a percentage of the tax  
13 liability reported on a return, a fee that is based on a percentage  
14 of the taxes owed, or a fee that depends on the specific tax result  
15 attained.

16 42105. (a) The city, county, or city and county that has adopted  
17 an ordinance to impose a local charge that applies to prepaid mobile  
18 telephony service shall be solely responsible for:

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

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

23 (3) Responding to any claim for refund by a customer arising  
24 under subdivision (b), (c), or (d). The claim shall be processed in  
25 accordance with the provisions of the local enactment that allows  
26 the claim to be filed.

27 (4) Certifying that the city, county, or city and county ordinance  
28 applies the local charge to prepaid mobile telephony services and  
29 agreeing to indemnify and hold harmless the board, its officers,  
30 agents, and employees for any and all liability for damages that  
31 may result from collection of the local charge.

32 (5) Reallocation of local charges as a result of correcting errors  
33 relating to the location of the point of sale of a seller or the known  
34 address of a consumer, for up to two past quarters from the date  
35 of knowledge.

36 (b) A consumer may rebut the presumed location of the retail  
37 transaction to the city or county clerk of the local jurisdiction, as  
38 provided in subdivision (b) of Section 42014, by filing a claim and  
39 declaration under penalty of perjury on a form established by the  
40 city or county clerk of the local jurisdiction indicating the actual

1 location of the retail sale. The claim shall be processed in  
2 accordance with the provisions of the local enactment that allows  
3 the claim to be filed.

4 (c) A consumer that is exempt from the local charge under the  
5 local enactment may file a claim for a refund from the local  
6 jurisdiction in accordance with the refund provisions of the local  
7 enactment that allows the claim to be filed.

8 (d) In connection with any actions or claims relating to or arising  
9 from the invalidity of a local tax ordinance, in whole or in part,  
10 the seller shall not be liable to any consumer as a consequence of  
11 collecting the tax. In the event a local jurisdiction is ordered to  
12 refund the tax, it shall be the sole responsibility of the local  
13 jurisdiction to refund the tax. In any action seeking to enjoin  
14 collection of a local charge by a seller, in any action seeking  
15 declaratory relief concerning a local charge, in any action seeking  
16 a refund of a local charge, or in any action seeking to otherwise  
17 invalidate a local charge, the sole necessary party defendant in the  
18 action shall be the local jurisdiction on whose behalf the local  
19 charge is collected, and the seller collecting the local charge shall  
20 not be named as a party in the action. There shall be no recovery  
21 from the state for the imposition of any unconstitutional or  
22 otherwise invalid local charge that is collected pursuant to this  
23 part.

24 42106. (a) For purposes of this section:

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

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

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

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

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

4 (2) As promptly as feasible after the board receives the city's,  
5 county's, or city and county's request, the board shall transmit to  
6 the city, county, or city and county the offset portion as part of the  
7 board's periodic transmittal of local charges.

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

14 (c) The board shall not transmit the offset portion of the refund  
15 to the city, county, or city and county if that transmittal would  
16 reduce or delay either the board's payment of the refund to the  
17 taxpayer or the board's periodic transmittals of local charges to  
18 other cities, counties, or city and county.

19 42107. The city, county, or city and county shall pay to the  
20 board its costs of preparation to administer and collect local  
21 charges. The city, county, or city and county shall pay costs  
22 monthly as are incurred and billed by the board. The costs include  
23 all preparatory costs, including costs of developing procedures,  
24 programming for data processing, developing and adopting  
25 appropriate regulations, designing and printing of forms,  
26 developing instructions for the board's staff and for taxpayers, and  
27 other necessary preparatory costs which shall include the board's  
28 direct and indirect costs as specified by Section 11256 of the  
29 Government Code. Any disputes as to the amount of preparatory  
30 costs incurred shall be resolved by the Director of Finance, and  
31 his or her decision shall be final.

32 42109. The board shall annually prepare a report showing the  
33 amount of both reimbursed and unreimbursed costs incurred by it  
34 in administering the collection of local charges pursuant to this  
35 part.

36 42110. (a) Notwithstanding Section 55381, it is unlawful for  
37 any person, other than an officer or employee of a county, city and  
38 county, city, or district, who obtains access to information  
39 contained in, or derived from, prepaid mobile telephony services  
40 surcharge and local charge records of the board pursuant to

1 subdivision (b), to retain that information after that person’s  
 2 contract with the county, city and county, city, or district has  
 3 expired.

4 (b) (1) When requested by resolution of the legislative body of  
 5 any county, city and county, city, or district, the board shall permit  
 6 any duly authorized officer or employee of the county, city and  
 7 county, city, or district, or other person designated by that  
 8 resolution, to examine all of the prepaid mobile telephony services  
 9 surcharge and local charge records of the board pertaining to the  
 10 ascertainment of those prepaid mobile telephony services surcharge  
 11 and local charges to be collected for the county, city and county,  
 12 city, or district by the board pursuant to contract entered into  
 13 between the board and the county, city and county, city, or district  
 14 pursuant to this part. Except as otherwise provided in this section,  
 15 this subdivision does not allow any officer, employee, or other  
 16 person authorized or designated by a county, city and county, city,  
 17 or district to examine any sales or transactions and use tax records  
 18 of any taxpayer. The costs that are incurred by the board in  
 19 complying with a request made pursuant to this subdivision shall  
 20 be deducted by the board from those revenues collected by the  
 21 board on behalf of the county, city and county, city, or district  
 22 making the request.

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

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

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

35 (C) Is prohibited by that contract from performing consulting  
 36 services for a seller during the term of that contract.

37 (D) Is prohibited by that contract from retaining the information  
 38 contained in, or derived from, those prepaid mobile telephony  
 39 services surcharge and local charge records, after that contract has  
 40 expired.



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

7 (c) If the board believes that any information obtained pursuant  
8 to subdivision (b) has been disclosed to any person not authorized  
9 or designated by the resolution of the legislative body of the county,  
10 city and county, city, or district, or has been used for purposes not  
11 permitted by subdivision (b), the board may impose conditions on  
12 access to its local charge records that the board considers  
13 reasonable, in order to protect the confidentiality of those records.

14 (d) Predecessors, successors, receivers, trustees, executors,  
15 administrators, assignees, and guarantors, if directly interested,  
16 may be given information as to the items included in the measure  
17 and amounts of any unpaid local charges or amounts of local  
18 charges required to be collected, interest, and penalties.

19 42111. ~~(a)~~—This part shall remain in effect only until January  
20 1, 2018, and as of that date is repealed, unless a later enacted  
21 statute, that is enacted before January 1, 2018, deletes or extends  
22 that date.

23 ~~(b) This part shall remain applicable for the collection of the~~  
24 ~~surcharge, the liability for which accrued prior to January 1, 2015;~~  
25 ~~the making of any refunds and the effecting of any credits; the~~  
26 ~~disposition of money collected; and the commencement of any~~  
27 ~~action or proceeding pursuant to this part.~~

28 *SEC. 12. The repeal of any provision of Part 21 (commencing*  
29 *with Section 42001), and Part 21.1 (commencing with Section*  
30 *42100), of Division 2, of the Revenue and Taxation Code, shall*  
31 *not affect the collection of the prepaid MTS surcharge, the liability*  
32 *of which accrued prior to January 1, 2018, the making of any*  
33 *refunds and effecting of any credits, the disposition of money*  
34 *collected, nor shall the repeal affect any act done or any right*  
35 *accruing or accrued, or any suit or proceeding had or commenced*  
36 *in any civil cause, before that repeal; but all rights and liabilities*  
37 *under that law shall continue, and may be enforced in the same*  
38 *manner, as if the repeal had not been made.*

1 ~~SEC. 12.~~

2 *SEC. 13.* No inference shall be drawn from the enactment of  
 3 this act with respect to any remittance requirements of a prepaid  
 4 MTS provider pursuant to the law as it existed prior to the  
 5 enactment of this act. Additionally, nothing in this act shall affect  
 6 any remittance requirements of a prepaid ~~MTS~~ *mobile telephony*  
 7 *services* provider for any service other than prepaid mobile  
 8 telephony services. Nothing in this act shall affect the federal  
 9 remittance requirements of a prepaid ~~MTS~~ *mobile telephony*  
 10 *services* provider.

11 ~~SEC. 13.~~

12 *SEC. 14.* It is the intent of the Legislature that the remittance  
 13 obligations of a prepaid ~~MTS~~ *mobile telephony services* provider,  
 14 relating to emergency telephone users surcharge and any charges  
 15 imposed by the Public Utilities Commission pursuant to Chapter  
 16 2.5 (commencing with Section 401) of Part 1 of Division 1 of the  
 17 Public Utilities Code or for purposes of the universal services  
 18 programs, shall continue to remain subject to the law existing prior  
 19 to the effective date of this act until January 1, 2016. However,  
 20 the law existing prior to the effective date of this act shall remain  
 21 applicable for each of the following:

- 22 (a) The collection of surcharges, the liability for which accrued  
 23 prior to January 1, 2015.
- 24 (b) The making of any refunds and the effecting of any credits.
- 25 (c) The disposition of money collected.
- 26 (d) The commencement of any action or proceeding pursuant  
 27 to this part.

28 ~~SEC. 14.~~ ~~It is the intent of the Legislature that prepaid~~  
 29 ~~customers, who qualify for the Universal Lifeline Telephone~~  
 30 ~~Service, shall not pay the prepaid MTS surcharge, pursuant to Part~~  
 31 ~~21 (commencing with Section 42000) of Division 2 of the Revenue~~  
 32 ~~and Taxation Code, when purchasing prepaid mobile telephony~~  
 33 ~~services at a carrier-owned retail location.~~

34 *SEC. 15.* No reimbursement is required by this act pursuant to  
 35 Section 6 of Article XIII B of the California Constitution because  
 36 the only costs that may be incurred by a local agency or school  
 37 district will be incurred because this act creates a new crime or  
 38 infraction, eliminates a crime or infraction, or changes the penalty  
 39 for a crime or infraction, within the meaning of Section 17556 of  
 40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 SEC. 16. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to provide a standardized collection mechanism as soon  
8 as possible by which state and local charges are collected from  
9 end-users of prepaid mobile telephony services, thereby permitting  
10 needed financial support for programs necessary to serve the public  
11 or telecommunications users, it is necessary that this act take effect  
12 immediately.

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