



Legislative
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FISCAL NOTE

Drafting Number: LLS 20-0287	Date: March 2, 2020
Prime Sponsors: Rep. McCluskie; Pelton Sen. Coram; Gonzales	Bill Status: House Business
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Bill Topic: EMERGENCY TELEPHONE SERVICE CHARGES

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes several changes to current the local emergency telephone charge and the prepaid wireless 911 charge, and creates a new 911 surcharge. In addition, the bill expands the use of broadband deployment funds to include 911 upgrades. The bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: In FY 2020-21, the bill requires an appropriation of \$83,247 to the Department of Regulatory Agencies. In addition, the bill requires an appropriation of \$18,930 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 20-1293**

		FY 2020-21	FY 2021-22
Revenue	Cash Funds	\$3,286,794	\$6,573,588
	Total	\$3,286,794	\$6,573,588
Expenditures	General Fund	\$18,930	-
	Cash Funds	\$83,247	\$84,076
	Centrally Appropriated	\$23,728	\$25,425
	Total	\$125,905	\$109,501
	Total FTE	0.9 FTE	1.0 FTE
Transfers		-	-
TABOR Refund	General Fund	\$83,247	\$84,076

Summary of Legislation

The bill makes several changes related to 911 surcharges and funding. These changes are discussed below.

Local 911 emergency telephone charge. Under current law, a local 911 governing body may assess an emergency telephone charge on a user within its jurisdiction to cover the costs of 911 service. The charge is capped at \$0.70 per month. The bill eliminates this cap. By January 1, 2021, the bill requires the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to annually determine the cap. Local 911 governing bodies may obtain approval from the PUC to impose a higher charge. Local 911 governing bodies must comply with annual reporting requirements. The bill also amends the procedures for the collection and remittance of local emergency telephone charges, and allows local 911 governing bodies to impose penalties on service providers.

911 surcharge. Beginning on January 1, 2021, the bill creates a new 911 surcharge. By October 1, 2020, and every October 1 thereafter, the bill requires the PUC to determine the rate for the surcharge, which may not exceed \$0.50 per month. The rate must be reasonably calculated to meet the needs of governing bodies to operate the 911 system. 911 service suppliers will collect the surcharge and remit them to the PUC for deposit in the new 911 Surcharge Trust Cash Fund. Service suppliers may retain one percent of the surcharge collected and the PUC may retain up to four percent for administrative costs. The PUC may adopt rules related to the remittance of the surcharge. The PUC may also conduct audits of service suppliers. Any penalties collected by the PUC is deposited in the 911 Surcharge Trust Cash Fund and distributed to local governments.

Prepaid 911 wireless surcharge. Currently, persons who purchase a prepaid wireless phone pay a surcharge for 911 service of 1.4 percent of the price of the phone. The bill repeals the fee set in statute and requires the PUC to establish the amount of the prepaid wireless 911 charge based on the average amount of local emergency telephone charges and the 911 surcharge.

Multi-line telephone systems reporting. The bill requires the PUC to create a mechanism for public reporting of violations of the bill. The PUC must forward its violation reports to any appropriate federal authorities.

Broadband deployment funds. Under current law, the Broadband Deployment Board (board) in DORA awards grants for broadband development in underserved areas of Colorado. The bill allows the board to award grants for upgrades to 911 service in addition to broadband. The board must develop criteria for awarding grants to wireless carriers to provide 911 service and the bill includes several criteria that must be assessed by the board.

Background and Assumptions

Local 911 governing bodies have been assessing emergency telephone charges since 1981. There are currently 58 local 911 governing bodies that operate 90 public safety answering points (PSAPs). Colorado's average 911 emergency telephone charges rate is currently \$1.11, with a low of \$0.50 and a high of \$2.00.

The General Assembly created the prepaid wireless 911 charge in 2001. The prepaid wireless 911 charge is collected by the Department of Revenue (DOR) and distributed to the local government where the purchase of the prepaid wireless phone was made.

An estimated \$74 million was raised through local 911 emergency telephone charges surcharges and prepaid wireless 911 surcharge in 2018. This fiscal note assumes revenue for the prepaid 911 wireless surcharge will remain the same in FY 2020-21 and FY 2021-22.

State Revenue

The bill will increase revenue to the 911 Surcharge Trust Cash Fund by \$3.3 million in FY 2020-21 and \$6.6 million in FY 2021-22. Of this amount, \$3.2 million in FY 2020-21 and \$6.5 million in FY 2021-22 will be distributed to local 911 governing bodies. Revenue from surcharges are held in trust for allocation to local governments and are exempt from TABOR.

Fee impact on phone users. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by PUC based on cash fund balance and estimated local 911 governing body and program costs. First-year costs reflect a half-year fee impact. The table below identifies the fee impact of this bill.

**Table 2
Fee Impact on Phone Users**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	911 surcharge	\$0.60	5,477,990	\$3,286,794
FY 2021-22	911 surcharge	\$1.20	5,477,990	\$6,573,588

State Expenditures

The bill increases state cash fund expenditures in DORA by \$106,975 and 0.9 FTE in FY 2020-21 and \$109,501 and 1.0 FTE in FY 2021-22. The bill also increases General Fund expenditures in the DOR by \$18,930 in FY 2020-21 only. These costs are shown in Table 3 and discussed below.

**Table 3
 Expenditures Under HB 20-1293**

Cost Components	FY 2020-21	FY 2021-22
Department of Regulatory Agencies		
Personal Services	\$75,832	\$82,726
Operating Expenses	\$1,215	\$1,350
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs*	\$23,728	\$25,425
FTE – Personal Services	0.9 FTE	1.0 FTE
DORA (Subtotal)	\$106,975	\$109,501
Department of Revenue		
Computer Programming	\$18,930	-
DOR (Subtotal)	\$18,930	-
Total	\$125,905	\$109,501
Total FTE	0.9 FTE	1.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Public Utilities Commission – DORA. The PUC requires 1.0 FTE rate analyst to monitor the 911 funds from service providers; manage the distributions to local governments; conduct necessary audits of service providers and remittances; and perform analysis in order to advise the PUC on annual rates for the state 911 surcharge, local emergency telephone charge, and the prepaid wireless 911 charge. First-year FTE costs are prorated to reflect the bill's August effective date. The PUC is authorized to retain up to 4 percent of 911 surcharge revenue for the direct and indirect costs of administering the 911 charges, and amounts shown in Table 3 are below that 4 percent cap.

In addition, workload will increase for the board to develop criteria for awarding broadband deployment grants for 911 upgrades and review potential applications. This workload can be accomplished within existing appropriations.

Department of Revenue. The DOR requires \$18,930 for to update the GenTax system for the prepaid wireless 911 charge. Programming costs are calculated at a rate of \$225 for 50 hours. All GenTax programming changes are tested by the department. Testing will require contract personnel representing 320 hours at a rate of \$24 per hour. Workload will also increase to annually update the tax rate as determined by the PUC.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$23,728 in FY 2020-21 and \$25,425 in FY 2021-22.

TABOR refunds. 911 surcharge revenue is not subject to TABOR; however, the amount of revenue retained by the PUC for administering the surcharge is subject to TABOR. As a result, the bill is expected to increase state General Fund obligations for TABOR refunds by \$83,247 in FY 2020-21 and \$84,076 in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Local Government

As stated above, the bill will increase revenue to local governments by \$3.2 million in FY 2020-21 and by \$6.5 million in FY 2021-22. Any increase in revenue will vary by the local 911 body based on the number of concurrent sessions maintained by the governing bodies.

To the extent that the PUC increases the amount that the local 911 governing bodies may charge and that local 911 governing bodies adopt increases to their current emergency telephone charges, local government revenue will increase. Any increases will vary by the local 911 governing body.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2020-21, the bill requires an appropriation of \$83,247 to the Department of Regulatory Agencies from the 911 Surcharge Trust Cash Fund, and 0.9 FTE. In addition, the bill requires a General Fund appropriation of \$18,930 to the Department of Revenue.

State and Local Government Contacts

Counties
Public Safety

Information Technology
Regulatory Agencies

Municipalities
Revenue