

# HOUSE RESEARCH

## Bill Summary

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**Authors:** Loon

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**Analyst:** Bob Eleff

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### Overview

House File 441 extends the E911 fee and the Telecommunication Access Minnesota fee (which provides persons with communications impairments with devices to enable them to use telecommunications devices) to prepaid wireless customers.

- 1 [237.52] **Subd. 3. Collection.** References an exception (in section 2) regarding the requirement for all telecommunications carriers to collect the Telephone Access Minnesota (TAM) fee established in subdivision 2.
- 2 [237.52] **Subd. 3a. Fee for prepaid wireless telecommunications service.** Specifies that the regular TAM fee does not apply to prepaid wireless communications service, which is subject instead to the fee established in section 12, subdivision 1, paragraph (b).
- 3 [270B.01] **Subd. 8. Minnesota tax laws.** Adds fees established in section 403 (i.e., the E911 fee) to the definition of "Minnesota tax laws."
- 4 [270B.12] **Subd. 4. Department of Public Safety.** Allows the commissioner of revenue to disclose return information to the department of public safety as necessary to administer the collection of E911 and TAM fees from wireless customers.
- 5 to 7 [403.02] **Definitions.**
- 8 [403.06] **Subd. 1a. Biennial budget; annual financial report.** Requires inclusion of 911 revenue and expenditure forecasts and projections, including separate data for prepaid wireless revenues, and projections of year end fund balances to the department of public service's annual budget report to the legislature.
- 9 [403.11] **Subd. 1. Emergency telecommunications service fee; account.** Exempts prepaid wireless customers from the current 911 fee; they are instead subject to the fee established in section 12.
- 10 [403.11] **Subd. 6. Report.** Requires semiannual reports from telecommunications providers to the commissioner of public safety on the number of prepaid and total wireless subscribers sourced to Minnesota. Specifies that this is trade secret data.

11 **[403.16] Definitions.**

12 **[403.161] Prepaid wireless fees imposed; collection; remittance.**

**Subd. 1. Fees imposed.** Imposes an E911 and TAM fee on prepaid wireless service at the current monthly rate.

**Subd. 2. Exemption.** Exempts from the fees in subdivision 1 a minimal amount of prepaid wireless telecommunications service (910 minutes or \$5 or less) sold with a prepaid wireless device that is charged a single non-itemized price.

**Subd. 3. Fee collected.** Specifies that these fees must be collected at the point of retail sale, combined into one amount, and separately reported on a receipt.

**Subd. 4. Sales and use tax treatment.** Specifies that the sales tax statutes be used to determine whether retail transactions of prepaid wireless service occur in Minnesota.

**Subd. 5. Remittance.** Specifies that the seller is liable to remit these fees as provided in section 13.

**Subd. 6. Exclusion for calculating other charges.** Excludes the fees from being included in the base for measuring any other tax or charge imposed by the state or a local government.

**Subd. 7. Fee changes.** Specifies that these fees for prepaid wireless service must be increased or reduced proportionately to fluctuations in the same fees that apply to other customers. Specifies the effective date of fee changes and notice requirements.

13 **[403.162] Administration of prepaid wireless 911 fees.**

**Subd. 1. Remittance.** Specifies that the fees must be collected by sellers and remitted to the commissioner of revenue in the same general manner as sales taxes.

**Subd. 2. Seller's fee retention.** Authorizes a seller to deduct and retain three percent of these fees.

**Subd. 3. Audit; appeal.** Specifies that the audit and appeal procedures of chapter 297A apply to these fees.

**Subd. 4. Procedures for resale transactions.** Authorizes the commissioner of revenue to establish procedures by which a seller may document that a sale is not a retail transaction that substantially coincide with existing provisions in chapter 297A.

**Subd. 5. Fees deposited.** Requires the commissioner of revenue to deposit each fees in its corresponding account within 30 days of receipt. The department may retain and deduct two percent of the collected fees for administration costs.

14 **[403.163] Liability of sellers and providers.** Exempts providers and sellers of prepaid wireless telecommunication service from liability for damages resulting from providing or not providing 911 service or in providing lawful assistance to a state, federal or local law enforcement officer.

15 **[403.164] Exclusivity of prepaid wireless E911 fee.** Prohibits any tax, fee or surcharge being imposed on prepaid wireless telecommunications service for E911 purposes.

16 **Report; recommendations.** Requires the commissioner of public safety to submit a report to the legislature by March 1, 2012 assessing the revenue collected from these fees and recommending any adjustment necessary to fund legislative appropriations for 911 expenditures or to maintain fairness

with respect to the amount of fees paid by wireless customers.

- 17**      **Effective date.** Specifies that sections 10 and 16 are effective the day following final enactment; all other sections are effective January 1, 2012.