COUNTY AGENDA REQUEST

Department:	Commissioners	Presenter(s):	Jack Krakeel
Meeting Date:	Thursday, August 11, 2011	Type of Request:	New Business

Wording for the Agenda:

Consideration of Resolution No. 2011-12 which establishes a 9-1-1 charge on prepaid wireless transactions at the point of retail sale.

Background/History/Details:

For years cities and counties have been allowed by state law to impose a limited fee on telephone lines, both land lines and wireless lines, for the purpose of applying the proceeds toward the cost of operating an emergency 9-1-1 communications system. Fayette County passed resolutions imposing fees on land lines ($1.50) and wireless lines ($1.00) years ago. However, the law that allowed a charge prepaid wireless phone lines (2008) has not adequately addressed the collection of prepaid fees. Recent legislation amending existing law has provided a remedy to the problem through a method of collecting the fee at the point of retail sale of prepaid wireless transactions. The 9-1-1 fee for each prepaid wireless transaction will be $.75.

Since the State Department of Revenue Sales and Use Tax Division will collect the fees from retail vendors, a resolution or ordinance must be enacted by a local government and forwarded to the State so that the fees can be returned to the local government. Funds that are not "claimed" by a jurisdiction via resolution or ordinance will used by the State as grants to communities trying to set up a 9-1-1 system.

Since Fayette's 9-1-1 system is a multi-jurisdictional system that serves the entire county, the municipalities of Fayetteville, Tyrone, and Peachtree City will also need to adopt a similar resolution so that each of them can receive their funds from the State as well.

What action are you seeking from the Board of Commissioners?

Motion to adopt Resolution No. 2011-12 which establishes a 9-1-1 charge on prepaid wireless transactions at the point of retail sale.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?	No	Backup Provided with Request?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

State of Georgia;
County of Fayette

RESOLUTION NO. 2011-12

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA FOR THE PURPOSE OF IMPOSING A 9-1-1 CHARGE ON PREPAID WIRLESS SERVICE AT THE RETAIL POINT OF SALE; TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, as amend by Act No. 187, Georgia Laws 2011, authorizes counties and cities that operate a 9-1-1 public safety answering point to impose a 9-1-1 charge on prepaid wireless service at the retail point of sale; and

WHEREAS, pursuant to Code Section 46-5-134.2 of the Official Code of Georgia Annotated, such charges may be imposed at the rate of seventy-five (75) cents per retail transaction; and

WHEREAS, revenues received by a county or municipality from such charges must be deposited in the emergency telephone assistance fund maintained by the county or municipality; and

WHEREAS, imposition of the charge on prepaid wireless service is contingent upon the enactment of an ordinance or resolution by the governing authority of the county or municipality; and

WHEREAS, the Board of Commissioners of Fayette County, Georgia (the "County") is the duly elected governing authority for Fayette County; and

WHEREAS, Fayette County operates a multi-jurisdictional 9-1-1 public safety answering point by intergovernmental agreement with the City of Fayetteville, the City of Peachtree City, the Town of Tyrone and the Fayette County Board of Education;

NOW, THEREFORE, the Board of Commissioners of Fayette County, Georgia, does hereby resolve as follows:

Section 1. 9-1-1 Charge on Prepaid Wireless Transactions

In accordance with O.C.G.A. § 46-5-134.2, there is hereby imposed a prepaid wireless 9-1-1 charge as defined by O.C.G.A. §46-5-134.2(a)(4) upon every prepared wireless retail transaction occurring within the jurisdiction of the public service answering point in the amount of seventy-five (75) cents.

Section 2. Collection of 9-1-1 Charge on Prepaid Wireless Transactions

Prepaid wireless 9-1-1- charges collected by sellers shall be remitted to the Commissioner of the Department of Revenue at the times and in the manner provided by Chapter 8 of Title 48 of the Official Code of Georgia Annotated with respect to the sales and use tax imposed on prepaid wireless calling service.

Section 3. Administrative Provisions

The Clerk of the County is hereby directed to file with the State Revenue Commissioner a certified copy of this resolution and any amendments thereto, in accordance with O.C.G.A § 46-5-134.2(j)(5), within ten (10) days of enactment of this resolution.

Section 4. Depositing of Funds; Use of Funds

In accordance with O.C.G.A. § 46-5-134.2(j)(5), funds received by Fayette County, as imposed by this resolution, shall be deposited in the Emergency Telephone System Fund maintained by Fayette County pursuant to O.C.G.A § 46-5-134 and kept separately from general revenue of the County; all such funds shall be used exclusively for the purposes authorized by O.C.G.A §46-5-134 (e).

Section 5. Repealer

All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 6. Effective Date

The effective date of this resolution is January 1, 2012.

SO RESOLVED this 11th day of August, 2011, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
Herbert E. Frady, Chairman

Attest:

_____
Clerk/Deputy Clerk

Collection and Disbursement of 9-1-1 Fees Prepaid Wireless Service

Legislation was passed in 2008 to assess a 9-1-1 fee on prepaid wireless phones. A menu of options ~~were~~ was provided for prepaid wireless suppliers to use to determine the fees owed for the wireless service sold. The Department of Community Affairs (DCA) was tasked with monitoring compliance with the statutory requirements and receiving the fees. The legislative intent was that the fee revenue was to be used to fund a grant program administered by DCA to assist local governments in the implementation of enhanced 9-1-1 services. To date approximately $28 million has been collected, not one cent has been appropriated for the intended purpose of a grant program to local governments. Those funds have been deposited in the state general fund and used for other purposes.

As the market for cell phones and telephone land lines shifts, the resources for the operation of 9-1-1 centers have declined. It is estimated that prepaid wireless phones now represent over 20% of the overall wireless cell phone market.

The prepaid wireless providers and ACCG agree that the current system is inefficient and burdensome. There are providers that do not comply with the law and there is no monitoring or enforcement. The National Conference of State Legislatures developed model legislation to offer a more coordinated approach to the assessment and collection of these fees on a national basis.

This new approach is to collect the fees at the point of sale, remit the fees to the Department of Revenue (DOR) much like sales tax, to be distributed per a formula based on population of the Public Safety Answering Point (PSAP).

It is estimated that this new approach will more than double the amount of revenue received on an annual basis, projections indicate approximately $20 million per year compared to the $8 million currently received. Not only will this provide a stable source of revenue for the 9-1-1 centers it is also more transparent. Customers will be charged the fee when they purchase a prepaid cell phone or reload the minutes and the charge will be reflected separately on the receipt. Every customer who may access 9-1-1 services will pay the fee and share in paying for the system. Currently, we have no way of knowing if this segment of the cell phone market is paying their share for the services.

Summary of Legislation

- This bill repeals the previous statue regarding collection of the 911 fee on prepaid wireless phones. The new bill sets out a new system to collect the prepaid fees at the point of sale.
- A 75 cent fee will be collected at the retail point of sale for each phone sold and each purchase of minutes to reload a prepaid wireless phone.
- 9-1-1 fees are collected at the retail level and remitted to the DOR just like sales tax.
- In order for the funds to be treated as a local tax, counties and municipalities must adopt an ordinance or resolution imposing the fee and file with the DOR.

- Fees will be distributed back to the counties and municipalities that adopted the ordinance or resolution on an annual basis.
- The allocation of funds will be based on the population of the PSAP. These funds will not be allocated based on point of sale collections.
- To ensure a statewide collection system the provision the language was added in (b)(2) that if a county of municipality fails to adopt an ordinance the fee would be retained by the state for the purpose of a grant program to improve 9-1-1 systems. It is highly unlikely that any jurisdiction will fail to adopt a resolution to collect the fee, but if for some reason it happens, that portion of the fee would go the state just as it does under the current statue.
- Provides that 3% of fees collected by retailer can be retained by the retailer to offset the costs of collecting the fee.
- The formula for share of the funds collected on an annual basis is the population of the jurisdiction(s) operating the PSAP and denominator which is the total population of the state.
- Funds will be distributed annually on or before October 15 of year year.
- Prior to distribution the DOR may retain not more than 2% of the total amount collected for the cost of administering the program.
- **If there is a jurisdiction that does not adopt the resolution the funds allocated according to the formula for that jurisdiction will be deposited in the general fund and be administered through a grants to counties program with the purpose of operations of PSAPS and the improvement of 911.**
- The effective date of the bill in January 1, 2012

State of Georgia

Douglas J. MacGinnitie
Commissioner

Department of Revenue

Administrative Division – Office of Tax Policy
1800 Century Blvd., Suite 15311
Atlanta, Georgia 30345-3205
(404) 417-6649

Frank M. O'Connell
Director

9-1-1 Prepaid Wireless Service Fee Information Sheet

The Georgia Department of Revenue requests you complete the following form and send it along with the any pertinent attachments to:

911resolutions@dor.ga.gov

The Department will provide you with notification of receipt.

County/Municipality: _____

Date Form Completed: _____

Date of Ordinance: _____

I the undersigned Clerk of the above County/ Municipality do hereby certify the following information to be true and correct.

- Attached is a certified copy of the pertinent parts of all ordinances and resolutions and amendments which levy the prepaid wireless 9-1-1 charge authorized by the Official Code of Georgia Annotated.
- That the population of the county/municipality as measured by the United States decennial census of 2010 is: _____.
- Counties or municipalities included in a multijurisdictional or regional 9-1-1 system are: _____
_____
_____

- The public safety answering point is located in _____ (City/County) and operated by: _____
- List the contact information for the person responsible for receiving correspondence and payments:

Name: _____

Title: _____

Address: _____

_____

Telephone No.: _____

E-Mail Address: _____

Completed by:

Name: _____

Title: _____

Address: _____

_____

Telephone No.: _____

E-Mail Address: _____

Signature: _____

Should you have any question please contact:

911resolutions@dor.ga.gov