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## FISCAL IMPACT REPORT

SPONSOR: Stell DATE TYPED: 03/08/01 HB 339  
 SHORT TITLE: Amend Enhanced E-911 Act SB \_\_\_\_\_  
 ANALYST: Padilla

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			Indeterminate (See Below)	Recurring	Wireless Enhanced 911 Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ 918.0	\$1.38 million	Recurring	Wireless Enhanced 911 Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Department of Finance and Administration (DFA)  
 Department of Public Safety (DPS)  
 Public Regulation Commission  
 New Mexico Municipal League

### SUMMARY

#### Synopsis of Bill

House Bill 339 amends the Enhanced 911 Act to provide enhanced 911 service to wireless (cellular) telephone customers throughout the state. The bill creates the “Wireless Enhanced 911 Fund” and authorizes wireless companies to collect a \$0.51 per month surcharge from each wireless phone customer with a billing address in New Mexico. The bill becomes effective July 1, 2001 and collection of the surcharge starts 90 days later. DFA’s Local Government Division will

administer the fund. The Wireless Enhanced 911 Fund will be used to pay wireless service providers and emergency dispatch centers to make their equipment capable of handling 911 calls from wireless phones as required by the Federal Communications Commission.

Significant Issues

The issue of wireless 911 arose when public safety agencies realized that wireless calls to 911 emergency centers could not display telephone number and location information for the caller. Wireless telephones are having a significant effect on the 911 system. There are estimates that up to one-third of all 911 calls in the country are from wireless callers. The Federal Communications Commission (FCC) has *required* wireless carriers to transmit a caller's telephone number and to display their location to the 911 emergency dispatch. Carriers have until October 2001 to comply with the requirements that they provide public safety answering points (PSAPs) with a way to pinpoint the location of callers to within about 400 feet.

The FCC has now mandated cost-recovery for wireless providers, because wireless providers did not want to be financially responsible for upgrades. Most states have made provisions for cost-recovery at the state level. Current surcharges imposed on wireline customers, which total \$.51 per telephone line, are insufficient to meet expenses associated with handling wireless enhanced 911.

PSAPs are the 911 dispatch centers in the state. There are currently 68 PSAPs in New Mexico, including 10 that belong to the State Police. Nine of the State Police PSAPs are secondary, but one (in Mora county) is a primary PSAP. In order to use enhanced wireless 911, the PSAPs need new equipment with new technological capacities. The wireless companies themselves are developing new systems to deliver this information to the PSAP and will charge the PSAP to recover their costs.

The bill does the following:

- It defines "enhanced wireless 911 service" to mean the relay to the PSAP of a 911 caller's number and base station or cell site location; and the latitude and longitude of the caller's location.
- It defines wireless, cellular and other similar services as "commercial mobile radio service providers" while landline telephone companies are defined as "telecommunications companies." (See technical issues below.)
- It also defines "wireless enhanced 911 surcharge" as a monthly charge on each active number for a commercial mobile radio service subscriber whose billing address is in New Mexico.
- It places a \$.51 surcharge on wireless customers. This is equal to the total 911 surcharge paid by on wireline customers.
- It identifies the types of equipment for which local governments can receive funding from the Fund, subject to the approval of the state board of finance.
- It provides for wireless companies to be reimbursed for their costs of providing enhanced wireless 911 service.
- It provides that Enhanced 911 Revenue Bonds can be issued for wireless enhanced 911 revenues. Revenue bonds issued by the Board of Finance may only be used for the eligible purpose of the three 911 funds. Revenues from one surcharge fund cannot be used to pay off bonds issued against other surcharge funds.

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- It gives the Local Government Division the power to adopt necessary rules and requires the Division to report annually to the legislature on the status of the Wireless Enhanced 911 Fund.
- It allows wireless service providers to keep one percent or \$50.00, whichever is greater, on a monthly basis for their administration costs.

The bill *does not* mandate that wireless enhanced 911 service be provided. It also *does not* specify the types of equipment for which wireless service providers can be reimbursed. The bill *does not* address the role of the Public Regulation Commission because the PRC does not regulate wireless carriers.

### FISCAL IMPLICATIONS

The future size of the wireless 911 fund is difficult to estimate. The cellular telephone industry operating in New Mexico is not willing to divulge how many customers they have in the state, but their rough estimate is over 200,000. Based on an estimate of 225,000 customers, the surcharge will generate \$1.38 million annually. The first surcharge would be imposed on wireless telephone billing in October, 2001, with the first tax returns due November 25, 2001. TRD therefore assumes FY02 revenue would include eight months of surcharge, or \$918.0.

Money deposited in the Wireless Enhanced 911 Fund and income earned by the investment of the fund are appropriated for expenditure on enhanced 911 wireless service in accordance with provisions of the Enhanced 911 Act. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall NOT revert to the general fund.

Other fiscal impacts include:

1. Small, recurring negative impact to state agencies that use mobile telephones. For each mobile phone, the agency will pay increased costs of \$6.12 per year for the wireless 911 surcharge. These costs will be borne by individual agencies.
2. Neutral fiscal impacts to local governments as they upgrade their PSAPs and apply for and receive funding from Wireless Enhanced 911 Fund.
3. Mixed impacts to the local wireless providers. While they will incur administrative costs to process the surcharge, the bill allows them to keep one percent of the surcharge for their expenses.
4. Possible negative fiscal impacts to the state general fund if the Local Government Division is unable to cover the costs of administering the fund with the five percent of the wireless 911 surcharge that the bill allows (see below under “administrative implications”).

### ADMINISTRATIVE IMPLICATIONS

The bill provides that up to five percent of the wireless 911 surcharge can be used by DFA for administration of the fund. DFA believes two FTE (one technical position and one fiscal position) will be needed to administer the wireless 911 program. DFA did not provide estimates of salaries, benefits and other costs associated with this new function.

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TRD will need to make computer system changes, adjust tax reporting procedures and increase some data entry. TRD notes that this relative small negative impact will not be reimbursed.

DPS reports that any costs of upgrading State Police' ten dispatch centers to handle wireless 911 calls will be borne by DPS itself because the bill does not let them recover their costs from the Wireless Enhanced 911 Fund. (NOTE: DFA reports that this is not accurate and that some costs of State Police PSAPs will be eligible for reimbursement.)

### **TECHNICAL ISSUES**

- 1) The definition of "wireless enhanced 911 surcharge" imposes the surcharge only on those wireless customers in New Mexico with an active number. Telephone companies are now marketing wireless phones for emergency purposes only. These phones appear NOT to be included in this definition because the telephones do not have numbers. They can only be used for outgoing, emergency calls.
- 2) The definition of "commercial mobile radio service" is inconsistent with other statutory definitions of cellular telephony service.
- 3) The definition of "telecommunications company" is inconsistent with other statutory definitions of telecommunications company.

### **OTHER SUBSTANTIVE ISSUES**

DFA notes that House Bill 339 is a consensus bill that was drafted by representatives of the wireless industry, telephone companies, local government dispatch center managers, public safety officials, the New Mexico Association of Counties, the New Mexico Municipal League and state government, all of whom composed the Wireless 911 Advisory Committee. House Bill 339 is similar to a bill introduced in the 2000 legislative session (House Bill 267a), which passed the house but died on the Senate floor on the last day of the session.

The New Mexico Municipal League reports that this bill is one of their priorities in the 2001 legislative session. The League believes it is logical that the surcharge on regular telephone lines be extended to wireless users in order to provide for enhanced wireless 911 service.

### **WHAT WOULD BE THE CONSEQUENCES OF NOT ENACTING THE BILL?**

Wireless phone customers would not be served by enhanced 911 service, unless local governments incurred the costs of upgrading the PSAPs themselves. Wireless callers would still be able to call 911 dispatch centers, but their location information would not be relayed.

### **AMENDMENTS**

DPS suggests amending the bill to recognize State Police dispatch centers as an authorized 911 service provider to make them eligible for cost-recovery. (NOTE: As mentioned above, DFA reports that State Police PSAPs are already able to receive reimbursement for some expenses from 911 funds.)

### **POSSIBLE QUESTIONS**

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1. Cellular phone companies are now marketing wireless phones for emergency use only (see above under “technical issues”). Does this bill have the effect of requiring regular wireless users to subsidize the users of emergency-only wireless phones?

DFA responded on 2/26/01 that this is not an issue. Emergency-only wireless phones have almost no impact on PSAPs in New Mexico.

2. Should the bill include more detail on what kinds of expenses of wireless companies can be reimbursed by the Fund?

DFA responded on 2/26/01 that the 911 Advisory Group discussed this issue at length and concluded that telecommunications technology is evolving too rapidly to be written into law. The bill states that the division shall pay or reimburse wireless companies “for their costs of providing enhanced 911 wireless service.” The kinds of expenses which make up the wireless companies’ costs will be identified in the DFA rule-making. This language is consistent with how landline telephone companies are treated.

3. What will happen if the Local Government Division’s cost of administering the wireless enhanced 911 program exceed the 5 percent of surcharges as provided for in the bill?

DFA responded on 2/26/01 that the Local Government Division will administer the wireless enhanced 911 program to ensure it is implemented on a timely basis and that the taxpayers receive a dollar’s worth of value for each dollar expended. It will do so within the administrative cost provisions of the bill.

LP/ar