

HOUSE RESEARCH

Bill Summary

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Overview

House File 389 extends the E911 fee and the Telecommunication Access Minnesota fee (which provides devices to persons with communications impairments to enable them to use telecommunications devices) to prepaid wireless customers. This bill also creates a grant program to assist broadband providers to meet the state's broadband access and speed goals.

Section

- 1** [237.52] **Subd. 3. Collection.** Provides an exception to the requirement that all telecommunications carriers collect the Telephone Access Minnesota (TAM) fee under this subdivision.
- 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 14, subdivision 1, paragraph (b).
- 3** [237.88] **Broadband development account.** Establishes a broadband development account in the special revenue fund to be managed by the commissioner of commerce. Deposits to the fund are made by the commissioner of public safety from the surcharge on E911 fees on prepaid wireless customers established in section 14.
- 4** [237.89] **Broadband development grant program.**

Subd. 1. Establishment; purpose. Establishes a broadband development grant program in the Office of Broadband Development whose goal is to financially assist

Section

providers in meeting the state's 2015 broadband access and speed goals.

Subd. 2. Program requirements. Specifies that grants may only be awarded to providers to support the use of capital equipment to extend broadband service to an unserved area or one whose speed is below the level of the state's broadband goals (10-20 Mbps download/5-10 Mbps upload). Projects must meet or exceed these speed levels.

Subd. 3. Application. Requires filing of an grant application with the commissioner of commerce.

Subd. 4. Limitations. Caps the maximum grant amount.

Subd. 5. Geographic balance. Encourages to commissioner to distribute grant awards to unserved and underserved areas in all parts of the state.

Subd. 6. Allocation of funds. Requires the commissioner to award a grant, if necessary, to insure that at least \$150,000 is available from all sources to continue efforts at mapping the availability and speed of broadband service throughout the state. After any such grant, at least 25 percent of the remaining funds must be used to expand wireless broadband service where it is currently unavailable. During the first two years of the grant program, grants may be awarded only in areas that are unserved or whose average speed is below 3 Mbps/768 Kbps.

- 5 [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."
- 6 [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 prepaid wireless customers.
- 7 to 9 [403.02] **Definitions.**
- 10 [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 in the department of public service's annual budget report to the legislature.
- 11 [403.11] **Subd. 1. Emergency telecommunications service fee; account.** Exempts prepaid wireless customers from the current 911 fee and subjects them to the fee established in section 14.
- 12 [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.
- 13 [403.16] **Definitions.**
- 14 [403.161] **Prepaid wireless fees imposed; collection; remittance.**

Section

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 (ten 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 15.

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.

Subd. 8. Surcharge. Adds a surcharge of four cents per retail transaction to the fee to be deposited in the broadband development account established in section 3.

15 [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. Department of Revenue provisions. Specifies that the audit, collection, appeal, and other 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 up to two percent of the collected fees for administration costs.

16 [403.163] Liability protection for sellers and providers. Exempts providers and sellers of prepaid wireless telecommunications service from liability for damages resulting from

Section

providing or not providing 911 services or in providing lawful assistance to a state, federal or local law enforcement officer.

- 17** **[403.164] Exclusivity of prepaid wireless E911 fee.** Prohibits any tax, fee or surcharge being imposed on prepaid wireless telecommunications service for E911 purposes.
- 18** **Report; recommendations.** Requires the commissioner of public safety to submit a report to the legislature by March 1, 2015, assessing the revenue collected from these fees and recommending any adjustment necessary to fund legislative appropriations for wireless E911 expenditures or to maintain fairness with respect to the amount of fees paid by customers.
- 19** **Appropriation.** Annually appropriates funds for the grant program.
- 20** **Effective date.** Specifies that sections 3, 12, 18, and 19 are effective the day following final enactment; all other sections are effective January 1, 2014.