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# MEMORANDUM

Legislative Fiscal Office  
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**To:** *Public Safety Subcommittee*

**From:** *John Borden, Legislative Fiscal Office*  
*(503) 986-1842*

**Date:** May 9th, 2013

**Subject:** *HB 3317*  
*Public Hearing*

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House Bill 3317-A relates to the emergency communications tax. The extension of this tax requires approval by a three-fifths majority of each chamber. The measure would take effect on the 91<sup>st</sup> day after the day of which the Legislature adjourns.

The measure was referred to Joint Committee on Ways and Means by order of the Speaker after receiving hearings in the House Committee on Veterans' Services and Emergency Preparedness and House Committee on Revenue.

The measure, staff measure summary, revenue impact statement, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS) and also included in the LFO electronic packet of materials.

In addition, the following supplemental materials have been posted to OLIS:

- Oregon Military Department informational presentation; and
- A Legislative Fiscal Office memorandum on legislative authority over statutory funds.

Thank you.

**77TH OREGON LEGISLATIVE ASSEMBLY  
2013 REGULAR SESSION  
STAFF MEASURE SUMMARY  
HOUSE REVENUE COMMITTEE**

**MEASURE: HB 3317- A  
CARRIER:**

**REVENUE: Revenue Impact Statement Issued**

**FISCAL: Fiscal Impact Issued**

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**Action:** Do Pass as Amended, be Printed Engrossed, and Bill be Referred to Ways and Means

**Vote:** 7-2-0

**Yeas:** Bailey, Bentz, Davis, Gelsner, Read, Vega Pederson, Barnhart

**Nays:** Berger, Conger

**Exc.:**

**Prepared By: Mazen Malik, Economist**

**Meeting Dates:** 4/03, 4/04

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**WHAT THE BILL DOES:** Extends sunset date for emergency communications tax from January 1, 2014 to January 1, 2022.

**ISSUES DISCUSSED:**

- The background of the tax and what functions it funds.
- Different ways and difficulties of the 911 Response Centers.
- Collections and the different methods of paying the tax.
- Incidence of the tax, who collects and equity.
- The level of compliance and the ability to do it and enforce it.
- Revenue impacts of the enhanced enforcement.
- Role of the Department of Revenue.

**EFFECT OF COMMITTEE AMENDMENTS:** The "-5" Amendments adds enforcement language for DOR to administer the tax emphasizing the providers of prepaid wireless and VOIP. Introduces reporting requirements and schedules, and allocates additional 0.25% of revenue collected to DOR for enforcement and administration.

**BACKGROUND:**

There is presently a 75 cent per month tax on every subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system. This tax is collected by the service provider from the subscriber. The program collects about \$39 million a year, but is set to expire on January 1, 2014. This measure extends the tax till 2022.

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**REVENUE IMPACT OF  
PROPOSED LEGISLATION**  
Seventy-Seventh Oregon Legislative Assembly  
2013 Regular Session  
Legislative Revenue Office

Bill Number: HB 3317-A  
Revenue Area: 911 Tax  
Economist: Mazen Malik  
Date: 04/04/2013

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

**Measure Description:**

Extends period of applicability of emergency communications tax.

**Revenue Impact (in \$Millions):**

	FY 14	FY 15	FY 16	FY 17	Biennium		
					13-15	15-17	15-18
Sunset extension Extend Revenue	\$38.87	\$38.68	\$38.51	\$38.34	\$77.55	\$76.84	\$76.51
Collection allowance extension 0.5%	(\$0.19)	(\$0.19)	(\$0.19)	(\$0.19)	(\$0.39)	(\$0.38)	(\$0.38)
<b>Net Revenue From Extension</b>	\$38.68	\$38.49	\$38.31	\$38.14	\$77.17	\$76.46	\$76.13
Enhanced Enforcement Revenue	\$0.36	\$1.13	\$1.16	\$1.19	\$1.49	\$2.35	\$2.41
Additional 0.25% DOR Allowance	(\$0.07)	(\$0.10)	(\$0.10)	(\$0.10)	(\$0.20)	(\$0.20)	(\$0.20)
<b>Net Revenue From Enforcement</b>	\$0.29	\$1.03	\$1.06	\$1.09	\$1.29	\$2.15	\$2.21
<b>Total Net Revenue</b>	\$38.96	\$39.52	\$39.37	\$39.23	\$78.46	\$78.61	\$78.34

**Impact Explanation:**

There is presently a 75 cent per month tax on every subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system. This tax is collected by the service provider from the subscriber. The program collects about \$39 million a year, but is set to expire on January 1, 2014. This measure extends the tax till 2022. The last four fiscal years of collections are shown in the table.

	Revenue	Change
2008-09	40.26	2.1%
2009-10	39.64	-1.5%
2010-11	39.54	-0.3%
2011-12	39.27	-0.7%

By extending the sunset date the bill continues the 75 cents tax for 911 services. The enforcement will add to the revenue collected while DOR will be allowed 0.25% for the enforcement effort.

**Creates, Extends, or Expands Tax Expenditure:** Yes  No

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 3317 - A**

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

Prepared by: John Terpening  
Reviewed by: John Borden, Monica Brown  
Date: 4-4-2013

**Measure Description:**

Extends period of applicability of emergency communications tax.

**Government Unit(s) Affected:**

Department of Revenue, Department of Public Safety Standards and Training, Oregon Military Department, Cities, Counties

**Summary of Expenditure Impact:** See Analysis

**Summary of Revenue Impact:** See Legislative Revenue Office Impact Statement

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:**

The measure extends the applicability of the existing emergency communications tax under ORS 403.200 to January 1, 2022. Currently the \$0.75 tax would sunset January 1, 2014. The -5 amendment increases the amount of funding available to the Department of Revenue (DOR) for administrative costs from one-half of one percent to three-quarters of one-percent of the amount in the account on date of distribution or actual expenses incurred, whichever is less. The measure as amended requires DOR to undertake enhanced enforcement and collection activities intended to achieve greater compliance and shall emphasize collection of tax liability for prepaid services and fixed interconnected Voice over Internet Protocol services. DOR is required to report on a quarterly basis to the legislative committee on revenue regarding implementation of the enhanced enforcement and collection efforts. The first report is due on or before February 15<sup>th</sup>, 2014, with subsequent reports to include details on categories of deficient providers relative to the emergency communications tax beginning February 15<sup>th</sup>, 2015. The reporting requirements are repealed at the convening of the 2017 Legislative Assembly.

The sunset on the emergency communications tax has reduced the Oregon Military Department's budget by \$68.5 million Other Funds and 9 positions (9.44 FTE). Included in these costs are \$57.7 million in special payments that are distributed to cities and counties. Additional distribution of these funds includes amounts transferred to the Department of Public Safety Standards and Training (DPSST) for training and certification of 9-1-1 telecommunicators and emergency medical dispatchers totaling \$338,017 Other Funds and one position (0.88 FTE). The revenue and expenditure limitation from the extension of the existing \$0.75 emergency communications tax are included as policy packages in these agency budgets .

DOR assumes a start-up date for the enhanced enforcement program of October 1, 2013. DOR anticipates the need for an additional full-time Tax Auditor 2 position and to increase an existing Public Service Representative 4 position from 0.75 FTE to 1.0 FTE in order to implement the measure. The total additional cost to DOR is \$203,194 Other Funds in 2013-15 and \$272,002 in 2015-17. This measure would require an adjustment to DOR's 2013-15 budget.

Uncertainty exists about the amount of additional emergency communications tax revenue that would be collected under current law due to increased enforcement and reporting activities. Estimates, both official and unofficial, range from \$2.2 million to \$14 million per biennium. If additional revenue is received above what has been historically collected from this tax, the revenue would flow through the current statutory distribution with the majority of the revenue going to the 35% 9-1-1 Enhanced Subaccount in the Military Department and approximately 60% to local government. How any additional distribution of funds would be used by the Military Department or local government has not been determined.

The Legislative Fiscal Office believes this measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of this measure's budgetary impact to the Department of Revenue, Department of Public Safety Standards and Training, and the Military Department.

## A-Engrossed House Bill 3317

Ordered by the House April 5  
Including House Amendments dated April 5

Sponsored by Representative READ; Representatives BAILEY, BARKER, BOONE, BUCKLEY, DOHERTY, FREDERICK, GALLEGOS, GELSER, GOMBERG, GORSEK, GREENLICK, HOLVEY, HOYLE, HUFFMAN, JENSON, KENY-GUYER, KOMP, KRIEGER, LIVELY, MATTHEWS, NATHANSON, PARRISH, VEGA PEDERSON, WEIDNER, WILLIAMSON, WITT, Senators STARR, THOMSEN (at the request of Oregon Chapters of Association of Public Safety Communications Officials/National Emergency Number Association (APCO/NENA), Association of Oregon Counties (AOC), League of Oregon Cities (LOC), Special Districts Association of Oregon (SDAO), Oregon State Firefighters Council (OSFFC), Oregon Fire District Directors Association (OFDDA), Oregon Fire Chiefs Association (OFCA), Oregon Volunteer Firefighters Association (OVFA), Oregon State Sheriffs Association (OSSA), Oregon Association Chiefs of Police (OACP), American Federation of State, County and Municipal Employees (AFSCME))

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Extends period of applicability of emergency communications tax. **For purposes of collection of tax, requires Department of Revenue to undertake enhanced enforcement and collection activities, with emphasis on collection by providers of tax owed on prepaid and Voice over Internet Protocol services. Directs department to report to Legislative Assembly regarding enhanced enforcement and collection activities.**

**Increases percentage of revenues from tax paid to department for administrative costs. Applies to calendar quarters ending on or after effective date of Act.**

**Takes effect on 91st day following adjournment sine die.**

### A BILL FOR AN ACT

1  
2 Relating to emergency communications taxes; creating new provisions; amending ORS 403.240 and  
3 section 4, chapter 5, Oregon Laws 2002 (first special session); prescribing an effective date; and  
4 providing for revenue raising that requires approval by a three-fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** Section 4, chapter 5, Oregon Laws 2002 (first special session), as amended by section  
7 tion 1, chapter 4, Oregon Laws 2002 (third special session), and section 1, chapter 629, Oregon Laws  
8 2007, is amended to read:

9 **Sec. 4.** (1) Taxes imposed under ORS [401.792] **403.200** apply to subscriber bills issued on or after  
10 ter January 1, 2002, and before January 1, [2014] **2022**.

11 (2) Taxes imposed under ORS [401.792] **403.200** on or after January 1, 2002, and before May 13,  
12 2002, are due and payable by the subscriber to the provider on or before 20 days after the first day  
13 of the month following May 13, 2002. Taxes that are not paid by the subscriber to the provider  
14 within the time required shall bear interest at the rate established under ORS 305.220 for each  
15 month, or fraction of a month, from the date that is 20 days after the first day of the month fol-  
16 lowing May 13, 2002, until paid.

17 (3) Unless previously remitted, taxes that are paid to the provider under subsection (2) of this  
18 section shall be remitted by the provider to the Department of Revenue at the time and in the same  
19 manner as taxes imposed under ORS [401.792] **403.200** for the first month following May 13, 2002,

**NOTE:** Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in boldfaced type.

1 are remitted to the department.

2 **SECTION 2.** Sections 3 and 4 of this 2013 Act are added to and made a part of ORS 403.200  
3 to 403.230.

4 **SECTION 3.** (1) As used in this section, “fixed interconnected Voice over Internet Pro-  
5 tocol service” means a telecommunications service that utilizes an Internet protocol to en-  
6 able a customer to participate in real-time two-way voice communication.

7 (2) For taxes imposed under ORS 403.200 that are due on or after the effective date of  
8 this 2013 Act, the Department of Revenue, in its administration of the provisions of ORS  
9 403.200 to 403.230, shall undertake enhanced enforcement and collection activities intended  
10 to achieve greater compliance with the tax imposed under ORS 403.200, and shall emphasize  
11 collection of the tax by providers required to collect tax imposed on prepaid services, and  
12 providers required to collect tax imposed on fixed interconnected Voice over Internet Pro-  
13 tocol service.

14 **SECTION 4.** (1) Beginning on or before February 15, 2014, the Department of Revenue  
15 shall report on a quarterly basis to a committee of the Legislative Assembly related to re-  
16 venue regarding the implementation of the enhanced enforcement and collection efforts re-  
17 quired under section 3 of this 2013 Act.

18 (2) Beginning on or before February 15, 2015, the department shall include in the quar-  
19 terly report required under subsection (1) of this section information that details categories  
20 of providers that are deficient in collecting the tax imposed under ORS 403.200.

21 **SECTION 5.** Section 4 of this 2013 Act is repealed on the date of the convening of the 2017  
22 regular session of the Legislative Assembly as specified in ORS 171.010.

23 **SECTION 6.** ORS 403.240, as amended by section 1, chapter 60, Oregon Laws 2012, is amended  
24 to read:

25 403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount  
26 of the moneys in the Emergency Communications Account. The office shall pay the following  
27 amounts from the account:

28 (a) Administrative costs incurred during the preceding calendar quarter by the Department of  
29 Revenue in carrying out ORS 403.200 to 403.230 in an amount that does not exceed [one-half]  
30 **three-quarters** of one percent of the amount in the account on the date of distribution, or actual  
31 expenses incurred by the department, whichever is less.

32 (b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency  
33 Management in carrying out its duties under ORS 305.823 and 403.105 to 403.250. The amount to be  
34 paid under this paragraph may not exceed four percent of the amount in the account on the date  
35 of distribution, and, on or before the next date of distribution, the office shall repay to the account  
36 any amount received under this paragraph that exceeds the actual expenses incurred by the office  
37 in the quarter.

38 (2) The office may:

39 (a) Provide funding for the Oregon Emergency Response System in an amount that does not  
40 exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System  
41 subject to availability of funds within the limit for administrative costs in subsection (1)(b) of this  
42 section.

43 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-  
44 tem under this subsection.

45 (3) The office shall use funds in the Enhanced 9-1-1 Subaccount to pay for costs incurred during

1 the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS  
2 403.115. The office may not disburse funds in the Enhanced 9-1-1 Subaccount to a 9-1-1 jurisdiction  
3 that does not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991.  
4 The office shall make payments for reimbursement only after a reimbursement request has been  
5 submitted to the office in the manner prescribed by the office. Reimbursement requests for recurring  
6 and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.115  
7 must be submitted directly to the office. The costs reimbursable under this subsection are only those  
8 incurred for:

- 9 (a) Modification of central office switching and trunking equipment;
- 10 (b) Network development, operation and maintenance;
- 11 (c) Database development, operation and maintenance;
- 12 (d) On-premises equipment procurement, maintenance and replacement;
- 13 (e) Conversion of pay station telephones required by ORS 403.140;
- 14 (f) Collection of the tax imposed by ORS 403.200 to 403.230; and
- 15 (g) Addressing if the reimbursement request is consistent with rules adopted by the office.

16 (4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions that  
17 have enhanced 9-1-1 telephone service operational prior to December 31, 1991, based on cost infor-  
18 mation provided in their final plan required in section 7, chapter 743, Oregon Laws 1991. The office  
19 shall approve final plans submitted that meet the minimum requirements set forth in ORS 403.115  
20 (2) and (4). The office shall limit funding for costs incurred prior to the preceding calendar quarter  
21 to charges associated with database development, network and on-premises equipment that satisfies  
22 the requirements of ORS 403.115 (2) and (4). The office shall prescribe the manner in which funding  
23 is provided under this subsection.

24 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described  
25 in ORS 403.235 to repay loans from the Special Public Works Fund if the loans were used for pur-  
26 poses that are allowable under ORS 403.105 to 403.250.

27 (6) The office shall retain amounts remaining in the Enhanced 9-1-1 Subaccount and may dis-  
28 tribute the amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and  
29 (5) of this section.

30 (7) The office shall review reimbursement requests for modification of central office switching  
31 and trunking equipment, conversion of pay station telephones, and network development, operation  
32 and maintenance costs necessary to comply with ORS 403.115 for the appropriateness of the costs  
33 claimed. The office shall approve or disapprove the reimbursement requests.

34 (8) The office shall review reimbursement requests for database development, operation and  
35 maintenance, and on-premises equipment procurement, maintenance and replacement costs necessary  
36 to comply with ORS 403.115 for the appropriateness of the costs claimed.

37 (9) After all amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been  
38 paid, the office shall allocate the balance of the Emergency Communications Account to cities on  
39 a per capita basis and to counties on a per capita basis of each county's unincorporated area for  
40 distribution directly to 9-1-1 jurisdictions as directed by the city or county. However, each county  
41 must be credited a minimum of one percent of the balance of the account after the amounts under  
42 subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

43 (10) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must  
44 be provided in the manner prescribed by the office and must include but not be limited to:

- 45 (a) Funds received and expended under subsection (9) of this section for the purposes of fulfilling



1 the requirements of ORS 403.115;

2 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS  
3 403.115; and

4 (c) Local funds received and expended for the purposes of providing emergency communications  
5 services.

6 **SECTION 7.** The amendments to ORS 403.240 by section 6 of this 2013 Act apply to cal-  
7 endar quarters ending on or after the effective date of this 2013 Act.

8 **SECTION 8.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
9 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

10