

Date of Hearing: March 10, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 330 (Rogers) – As Introduced January 27, 2025

Majority vote. Fiscal committee.

SUBJECT: Local Prepaid Mobile Telephony Services Collection Act

SUMMARY: Extends the operation of the Local Prepaid Mobile Telephony Services (MTS) Collection Act ("Act") until January 1, 2031. Specifically, **this bill:**

- 1) Extends the Act's sunset date from January 1, 2026, to January 1, 2031.
- 2) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution for specified reasons.

EXISTING LAW:

- 1) Suspends, under the Act, the authority of a city, county, or city and county, to impose a utility user tax (UUT) on the consumption of prepaid communications service and any charge that applies to prepaid MTS, as defined, on access to communication services or access to local "911" emergency telephone systems. (Revenue and Taxation Code (R&TC) Section 42102.)
- 2) Requires these taxes and charges to be applied during the period beginning January 1, 2016, and ending January 1, 2026, under any local ordinance to be at specified rates. (*Id.*)
- 3) Requires that these local charges imposed by a city, county, or city and county on prepaid MTS be collected from the prepaid consumer by a seller at the time of sale, as specified. (R&TC Section 42101.5.)
- 4) Requires that all local charges be collected and paid to the California Department of Tax and Fee Administration (CDTFA) pursuant to the Fee Collection Procedures Law and be deposited into the Local Charges for Prepaid MTS Fund, for transmittal to the city, county, or city and county, as provided. (R&TC Section 42103.)

FISCAL EFFECT: Based on quarterly revenue trends, this bill is estimated to generate approximately \$1.84 million in revenue for calendar year 2026.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

AB 330 will extend the sunset date of the Local Prepaid Mobile Telephony Services Collection Act (or MTS) to January 1, 2031. In Assembly District 2, Arcata (Humboldt County), Cloverdale (Sonoma County), and Sebastopol (Sonoma County) levy the

Prepaid Mobile Telephony Services Surcharge. This extension allows local governments to continue collecting critical revenues from prepaid MTS. Without an extension, local governments would face a loss of these important funds, exacerbating existing financial pressures. AB 330 is vital to maintain financial stability for local governments and continue funding the services that support California's communities.

2) This bill is sponsored by Muniservices, which notes the following:

The Local Prepaid Mobile Telephony Services Collection Act ensures that local governments receive critical revenue from local 911 charges, local 988 charges, and Utility User Taxes (UUTs) on prepaid wireless telephone service. By requiring certain retailers to collect these surcharges and remit them to the California Department of Tax and Fee Administration (CDTFA) for distribution, the Act maintains revenue parity between postpaid and prepaid wireless consumers.

Notably, 104 cities and counties in California impose local charges on telecommunication services, underscoring the extensive dependence on these funds to support vital public services. Without an extension of this Act beyond its current expiration date of January 1, 2026, these local governments could face revenue shortfalls, jeopardizing funding for emergency response systems, suicide and crisis lifelines, and other essential community services. Many local jurisdictions are already confronting budgetary constraints, and the expiration of this Act would further strain their ability to provide critical public safety and infrastructure support.

AB 330 offers a fiscally responsible solution by preserving this essential revenue source without imposing any new taxes or fees on consumers. Additionally, the bill does not impact other charges collected or paid by wireless service providers, including those related to state-administered 911 and 988 programs or the California Public Utilities Commission.

3) This bill is supported by CTIA, which notes the following:

In 2014, the legislature, with overwhelming bi-partisan support, passed AB 1717 (Perea), to create a statewide system for retail point-of-sale collection of state and local taxes and fees imposed on prepaid wireless services. The existing provisions from AB 1717 expired on January 1, 2020. SB 344 (McGuire, 2019) extended the sunset date to January 1, 2021, and SB 1441 (McGuire, 2020) further extended the sunset to January 1, 2026.

More than 40 states have enacted prepaid wireless point-of-sale collection statutes in recognition of their importance to funding state and local programs. AB 330 ensures that the prepaid sector of the communications market will continue to equitably share in the responsibility of funding local 911 fees and providing critical revenue to cities and counties generated by local utility user taxes (UUTs).

Prepaid wireless services are offered on a "pay-as-you-go" basis with no required contracts, term volume commitments, overage charges, or credit checks. These important factors make prepaid services an important choice for customers who opt for the reliability, security, convenience, affordability and availability of prepaid services. AB 330 ensures the continued collection of local 911 fees and UUTs without interruption by extending the sunset.

4) Committee Staff Comments:

- a) *Overview of the Act:* The Act provides that, on and after January 1, 2016, a "local charge" imposed by a city or county on prepaid MTS must be collected from the consumer by the seller at the time of sale, provided the local government enters into a contract with CDTFA for administrative purposes. (R&TC Section 42101.5.) A "local charge", in turn, is defined to include both a UUT and charges for access to communication services or to local "911" emergency telephone systems. (R&TC Section 42101(d).) If the local government enters into a contract with CDTFA, the existing UUT and access charge rates imposed by the local government on prepaid MTS are suspended. Instead, the simplified rates specified in the Act apply. CDTFA performs all functions incident to collection and administration of the city or county's local charges pursuant to the Fee Collection Procedures Law.

The Act also contains a so-called "vendor compensation" provision, which allows specified retailers¹ to deduct and retain 2% of the amounts collected from prepaid consumers for local charges. (R&TC Section 42101.5(a)(2).) The amount of the local charge must be separately stated on any invoice, receipt, or other similar document provided to the prepaid consumer. (R&TC Section 42101.6(f).) Except as otherwise provided, if prepaid MTS are sold in combination with mobile data services or any other services or products that are not subject to the local charges for a single price, then the local charges apply to the entire price unless the seller can identify the mobile data services and other services or products from its books and records. (R&TC Section 42101.9.) Finally, the Act provides an exemption from the collection and remittance obligations for non-direct sellers with less than \$15,000 in prepaid MTS sales in the previous calendar year. (R&TC Section 42101.7(a).)

CDTFA deposits all local charges in the Local Charges for Prepaid MTS Fund in the State Treasury. These moneys are held in trust for the local taxing jurisdictions, of which there are currently 107. Finally, the Act requires local governments to pay CDTFA's pro rata share of collection and administrative costs.

- b) *To what exactly do local charges apply?* Local charges apply to amounts charged for the following:
- i) Prepaid wireless airtime cards;
 - ii) Prepaid wireless cards compatible with pay-as-you-go cell phones;
 - iii) Prepaid wireless minutes;
 - iv) Prepaid wireless plans;
 - v) Prepaid wireless refill or top-off cards;

¹ Vendor compensation is not permitted for a "direct seller", which the Act defines as a prepaid MTS provider or services supplier that makes a sale of prepaid MTS directly to a prepaid consumer for any purpose other than resale in the regular course of business. Direct sellers generally include telephone corporations or an interconnected Voice over Internet Protocol service, which are regulated by the California Public Utilities Commission (PUC).

- vi) Prepaid wireless eCards;
 - vii) Prepaid mobile data or any other services when sold with any of the above;
 - viii) Any product or service (except a cell phone), when sold with prepaid MTS for a single non-itemized price; and,
 - ix) A cell phone sold with prepaid MTS for a single non-itemized price, as provided.
- c) *What would this bill do?* Currently, the Act is set to sunset on January 1, 2026. This bill would, very simply, extend operation of the Act until January 1, 2031.
- d) *Competing equities:* AB 1717 (Perea), Chapter 885, Statutes of 2014, established the Act. The Act was designed, in part, to simplify the collection and remittance of local charges. It did so by establishing a "tiered method" for collecting UUTs (with rates ranging from 0 to 9%). This tiered structure was designed to ameliorate the administrative complexity that would necessarily be involved in collecting the multiple rates imposed by the numerous jurisdictions with UUT ordinances applicable to MTS. The Act also established a simplified method for collecting access and local 911 charges. Finally, the Act established rules for when to apply local charges to bundled transactions (e.g., when a cell phone is sold with prepaid MTS for a single non-itemized price.) While this simplified system has benefited the telecommunications industry and the local governments that rely on these revenues, there are, as with so many legislative enactments, potential tradeoffs to consider. Namely, individual purchasers of prepaid MTS may actually end up paying more in local charges under the Act than they would have owed under the pre-existing collection methodology, mainly because local charges are applied to the entire amount of many bundled transactions. It is worth considering that prepaid MTS are often purchased by individuals without access to the more traditional post-paid telecommunications offerings. In fact, according to the findings and declarations included in AB 1717, prepaid services "are often the only means by which persons with low incomes can obtain limited access to the telecommunications system."
- e) *What happened to the state act?* In addition to the Act, which governs local charges, AB 1717 (Perea), Chapter 885, Statutes of 2014, also established a Prepaid MTS Surcharge Collection Act ("State Act"). The State Act required end consumers of prepaid MTS to pay a "surcharge" set as a percentage of the sales price of each retail transaction. The surcharge, in turn, was set to fund California's universal service fund and certain CPUC fees. In *MetroPCS California, LLC v. Picker*, 348 F.Supp.3d 948 (2018), the United States District Court for the Northern District of California held that the State Act conflicted with federal law and was therefore preempted and unconstitutional.
- f) *Prior legislation:*
- i) SB 1441 (McGuire), Chapter 179, Statutes of 2020, extended operation of the Act until January 1, 2026, and made non-substantive changes to eliminate cross-references in the Act to the Prepaid MTS Surcharge Collection Act.
 - ii) SB 344 (McGuire), Chapter 642, Statutes of 2019, extended operation of the Act until January 1, 2021, and provided that local charges apply to the entire sales price unless

the seller can identify the services or products that are not subject to local charges from its books and records kept in the ordinary course of business.

- iii) SB 84 (Committee on Budget and Fiscal Review), Chapter 25, Statutes of 2015, among other things, exempted non-direct sellers, with de minimis sales of prepaid MTS of less than \$15,000 during the previous calendar year, from collecting and remitting the prepaid MTS surcharge and local charge.
- iv) AB 1717 (Perea), Chapter 885, Statutes of 2014, enacted the Prepaid MTS Surcharge Collection Act, which established a prepaid MTS surcharge based upon a percentage of the sales price of each retail transaction that occurs in this state for prepaid MTS, as defined. The prepaid MTS surcharge included the emergency telephone users surcharge, as defined, and Public Utilities Commission surcharges, as defined. The bill also enacted the Act to govern specified local charges.

REGISTERED SUPPORT / OPPOSITION:

Support

Muniservices (Sponsor)
City of Chula Vista
City of Inglewood
City of Redwood City
CTIA
League of California Cities
Mayor, City of El Cerrito

Opposition

None on file

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