

Q & A Regarding Missouri 911 Legislation
HB 1456 (911 Funding)

The provisions of this bill apply differently to different counties and cities. Counties or cities should consult their respective legal counsel regarding specific questions about the interpretation or applicability of this bill as it relates to the specific circumstances of the city or county.

Q. Do counties/taxing authorities still have the right to opt out of the prepaid wireless emergency telephone service charge under section 190.460?

A. Counties and cities have the right to opt-out of the new prepaid wireless emergency telephone charge until November 16, 2018, or 45 days prior to January 1, 2019.

Q. Who has the authority to opt-out of the prepaid wireless emergency telephone service charge (PWETSC) imposed under section 190.460? Since the 911 Boards receive the funding directly and are a separate political subdivision having authority over 911, will they make the decision or will the county or city commission decide?

A. Section 190.460, subsection 6, provides that the PWETSC will become effective unless the governing body of a city or county opts out by a two-thirds vote. 911 boards are not the “governing body” of a city or county; therefore, they cannot opt out of the PWETSC.

Q. I would like clarification on the charges we are allowed to continue after January 1, 2019. Our four counties voted in a surcharge on landline phone bills about thirty years ago. It appears that this new funding authorized under sections 190.460.5 and 190.460.6, RSMo, will be in addition to that surcharge because it is not a tax as defined in section(s) 190.292 and/or 190.335 RSMo.

and

Q. We currently have a general sales tax which funds our 911 system. Our 911 system is not funded by a tax based on sections 190.292 or 190.335. As such, would this bill generate extra revenue for our county 911 system?

A. Yes. It is anticipated that the funding provisions contained in HB 1456 (2018) – including the PWETSC and the option to impose a subscriber fee on all communications services enabled to contact 911 authorized under section 190.455 – will provide opportunities to generate extra revenue for local 911 systems.

Q. Is the prepaid wireless emergency telephone service charge against the sale of service, the sale of a device, or both?

A. Section 190.460 allows for the implementation of a charge on prepaid wireless telecommunications *service*, and not on the device itself. Therefore, this charge is assessed as follows:

- Customer spends \$100 total to purchase a \$60 wireless device (i.e. phone) and \$40 of prepaid service.
 - Wireless device (\$60):
 - Sales tax: Assessed at the applicable state and local sales tax rate. If your jurisdiction has a sales tax in place to fund 911 service, this tax will be assessed on the sale of the wireless device.
 - PWETSC: No charge.
 - Prepaid service (\$40):
 - Sales tax: Assessed at the applicable state and local sales tax rate. If your jurisdiction has a sales tax in place to fund 911 services under sections 190.292 and 190.335, that tax cannot be assessed on the sale of the service in addition to the PWETSC.
 - PWETSC: Charged at a rate of 3%.

Q. Since our county already has a funding tax in place, if we did not opt out of the PWETSC, would this be the same as the citizens being charged twice for 911 funding?

A. Section 190.460.5 provides that the PWETSC is in addition to all other charges, unless you have a tax imposed under section 190.292 or 190.335. The PWETSC must be charged in lieu of a tax under section 190.292 or 190.335.

Q. Will counties (or other entities) currently assessing a landline 911 fee be transitioning to a per line fee that is assessed on landline, VoIP and wireless service? Will the current landline fees that the counties charge be discontinued?

A. Not automatically. Section 190.455 provides counties the power to impose a monthly fee up to \$1 on subscribers of any communications service that has been enabled to contact 911 (such as landlines, non-prepaid wireless service, and VOIP) unless there is a tax under sections 190.305, 190.325, 190.292, or 190.335. This fee does not become effective unless it is approved by the county's voters.

Q. Will the state 911 board be tracking the new local/county 911 fees as they are adopted? Will there be a centralized list of these fees?

A. Section 190.475 requires the Department of Revenue to “maintain a centralized database, which shall be made available to the Missouri 911 service board established under section [650.325](#), specifying the current monthly fee or tax imposed by each county or city under section [190.292](#), [190.305](#), [190.325](#), [190.335](#), or [190.455](#).” To help facilitate

this process, DOR would ask that all counties and cities notify the Department when any of the aforementioned fees or taxes are adopted.

Q. Am I correct that counties and cities do not need to take any action unless they wish to opt out by adopting regulation 45 days prior?

A. PWETSC, section 190.460: Counties and cities will automatically participate in the PWETSC program unless they opt-out 45 days prior to January 1, 2019. The opt-out procedure is found in section 190.460.

Subscriber fee, section 190.455: If counties or cities wish to impose a subscriber fee on all 911-enabled communications services, then a vote must take place following the procedure in section 190.455.

Q. Is there any way to estimate what revenues the different funding provisions in HB 1456 would generate for my community?

A. No.

Q. 911 services in my city are provided by the county. Will revenue raised from HB 1456 go to fund the county 911 office?

A. PWETSC, section 190.460: Funds raised pursuant to this section will be deposited by the Department of Revenue in the Missouri 911 Service Trust Fund for use by the Missouri 911 Services Board. The amounts collected are then remitted to participating counties, or a city not within a county, in direct proportion to the amount of charges collected in each county, or city not within a county, at a rate set by the Missouri 911 Services Board. Counties may only use amounts received for purposes authorized in sections 190.305, 190.325, and 190.335, which generally deal with the provision of 911 services.

Subscriber fee, section 190.455: This fee may be imposed solely for the purpose of funding 911 service. If the voters of a jurisdiction approve this fee, subsection 4 provides that the Department of Revenue will collect this fee, minus two percent to be withheld by the provider and one percent for the cost of collection. The remainder shall be deposited in the Missouri 911 Service Trust Fund. DOR shall then remit such funds to the county or city on a monthly basis. The governing body of any such county or city shall control such funds remitted to the county or city unless the county or city has established an elected board for the purpose of administering such funds. If a county or city has established a board under any other provision of state law for the purpose of administering funds for 911 service, such existing board may continue to perform these functions.

Q. Can my city opt out of PWETSC by vote if the county doesn't?

A. Yes. Section 190.460, subsection 6, provides that the governing body of a county or city may take action by a two-thirds vote to opt out of the PWETSC. If the county opts out, the entire county – including the city – will be opted out. If the city opts out, then only the city will be affected, and the PWETSC will be charged in the remainder of the county.

Q. Is prepaid involving phones and cards purchased locally, as opposed to traditional cell bills that already have a 911 charge added to it?

A. Yes. Section 190.460 defines “prepaid wireless telecommunications service” as “a wireless telecommunications service that allows a caller to dial 911 to access the 911 system and which service shall be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.” This appears to contrast with a traditional subscriber wireless service, in which a customer pays a fixed monthly amount that does not vary depending on service usage, or in which all the data/services expire at the end of the month regardless of the amount used.

Q. Our local sheriff's office receives and responds to 911 calls now, but we don't have enhanced 911 capability. Will our sheriff's office be eligible to receive funds from the 911 Service Board?

A. PWETSC, section 190.460: Funds raised pursuant to this section will be deposited by the Department of Revenue in the Missouri 911 Service Trust Fund for use by the Missouri 911 Services Board. The amounts collected are then remitted to participating counties in direct proportion to the amount of charges collected in each county at a rate set by the Missouri 911 Services Board. Counties may only use amounts received for purposes authorized in sections 190.305, 190.325, and 190.335, which generally deal with the provision of 911 services.

Section 650.335 allows the Missouri 911 Service Board to make loans or provide other financial assistance from PWETSC charges for the purpose of financing all or a portion of the costs incurred in implementing a 911 communications service project. This may make additional funding available for funding 911 projects in your jurisdiction.

Subscriber fee, section 190.455: This fee may be submitted to a county's, or certain specified cities', voters only after certain actions are taken regarding consolidation of 911 services. If these actions are taken, and the voters of a jurisdiction approve this fee, subsection 4 provides that the Department of Revenue will collect this fee, minus two percent to be withheld by the provider and one percent for the cost of collection. The remainder shall be deposited in the Missouri 911 Service Trust Fund. DOR shall then remit such funds to the county or city on a monthly basis.

The governing body of any such county or city shall control such funds remitted to the county or city unless the county or city has established an elected board for the purpose

of administering such funds. If a county or city has established a board under any other provision of state law for the purpose of administering funds for 911 service, such existing board may continue to perform these functions. This fee may be imposed solely for the purpose of funding 911 service. It will be the responsibility of the recipient to determine whether providing funds to the sheriff's office complies with this requirement.

Q. If we opt out of the PWETSC now what is the time period to implement the tax at a later date?

A. There is no provision in section 190.460 that allows for this charge to be implemented at a later date if a county or city opts out.

Q. Does this require voter approval, if so simple majority or 2/3 vote?

A. PWETSC, section 190.460: The PWETSC goes into effect automatically unless your jurisdiction's governing body opts out. If your jurisdiction wishes to opt out, the jurisdiction's governing body must pass an ordinance or resolution opting out. The vote to pass the ordinance requires a 2/3 majority, and must be passed 45 days prior to January 1, 2019.

Subscriber fee, section 190.455: Voter approval is required prior to implementation of the section 190.455 subscriber fee. A simple majority is all that is required. The procedure for conducting such a vote is found in subsection 2.