

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Philip Morley, County Administrator

FROM: Janet Silvus, Director
JeffCom 911

DATE: October 11, 2010

RE: Agreement with Department of Revenue for the Collection of
E911 Excise Taxes

STATEMENT OF ISSUE:

The State of Washington E911 Military Department is requiring that all counties that collect telephone excise tax contract with the Department of Revenue to have them directly collect excise taxes from the carriers.

ANALYSIS:

RCW 82.14B.030 is being modified with regard to the authority to impose E911 excise tax on wireline and wireless services and further revised to include language regarding the collection of the taxes. The Department of Revenue will collect all telephone excise tax from carriers, then distribute revenue collect for each county to their Treasurer. RCW 82.14B.060 is also modified to eliminate provisions for the county to establish their own procedures for the collection of E911 Taxes.

FISCAL IMPACT:

The Department of Revenue can keep up to 2% handling fee. For 2011 the fee is established at 1%.

RECOMMENDATION:

Complete contract, attain County Commissioner signature and return both originals to JeffCom. One original will be returned to BOCC after State signatures are attained.

DEPARTMENT CONTACT:

Janet Silvus, ext. 788 or/Kathy Young ext. 756

REVIEWED BY:


Philip Morley, County Administrator

10/7/10

Date

AGREEMENT FOR STATE ADMINISTRATION OF COUNTY ENHANCED 911 EXCISE TAXES

THIS AGREEMENT ("Agreement") is entered into by and between Jefferson County ("County") and the State of Washington Department of Revenue ("Department") for the administration of county enhanced 911 excise taxes. This Agreement is effective January 1, 2011.

WHEREAS, the Legislature of the State of Washington has, by Laws of 2010, First Special Session, ch. 19, § 3, authorized the County to impose enhanced 911 excise taxes on switched access lines, radio access lines, and interconnected voice over internet protocol service lines; and

WHEREAS, Laws of 2010, First Special Session, ch. 19, § 4 requires counties imposing county enhanced 911 excise taxes to contract with the Department for the administration and collection of the taxes; and

WHEREAS, the County has by ordinance, a copy of which is attached hereto (the "Ordinance"), elected to impose:

1. an enhanced 911 excise tax on switched access lines of Seventy cents ~~(70¢)~~ per month per line;
2. an enhanced 911 excise tax on radio access lines of Seventy cents ~~(70¢)~~ per month per line; and
3. an enhanced 911 excise tax on interconnected voice over internet protocol service lines of Seventy cents ~~(70¢)~~ per month per line;

NOW, THEREFORE, to provide for the administration and collection of the county enhanced 911 excise taxes imposed by the Ordinance, the parties agree as follows:

1. The Department shall exclusively perform all functions incident to the administration and collection of the county enhanced 911 excise taxes imposed by the ordinance referenced above, other than criminal prosecutions. The parties intend any notification that DOR sends to taxpayers in the course of its administration of the taxes to also serve as notice from the counties.
2. The Department shall retain from the county enhanced 911 excise taxes so collected the amount of one percent (1%) thereof to cover administration and collection expenses incurred by the Department. Said percentage amount shall be subject to review during January of each year, PROVIDED, HOWEVER, that no change in the percentage retained shall be effective without an amendment to this Agreement.
3. In accordance with Laws of 2010, First Special Session, ch. 19, § 4, the remainder of the county enhanced 911 excise taxes so collected shall be deposited by the Department in the county enhanced 911 excise tax account in the custody of the State Treasurer. The moneys that accrue

in the county enhanced 911 excise tax account shall be distributed as provided by law.

4. Insofar as they are applicable to the administration, collection, and enforcement of enhanced 911 excise taxes, the Department shall apply the general administrative provisions contained in chapter 82.32 RCW as it exists or may hereafter be amended to the performance of its duties under this Agreement. The Department shall perform its duties under this Agreement so that as far as possible the county enhanced 911 excise taxes are administered and collected uniformly with the state enhanced 911 excise taxes. Rules to be adopted by the Department to facilitate the administration and distribution of the state and county enhanced 911 excise taxes shall be in accordance with chapter 34.05 RCW, the State Administrative Procedure Act.
5. The allocation of county enhanced 911 excise tax collections will be made by the Department to the State Treasurer within thirty (30) days after the due date of the taxable period for which county enhanced 911 excise taxes are imposed. Distribution of taxes to the County shall be made in accordance with Laws of 2010, First Special Session, ch. 19, § 5.
6. The County must notify the Department in writing of a change in the county enhanced 911 excise taxes no less than seventy-five (75) days before the effective date of the change.
7. Chapter 82.32 RCW provides a mechanism for taxpayers to seek refunds or credits for overpaid taxes. All refunds, credits, and interest for enhanced 911 excise taxes imposed by the County shall be charged to the County.
8. Any taxpayer payments of penalties or interest pursuant to Laws of 2010, First Special Session, ch. 19 will be deposited and distributed according to paragraphs 3 and 5 of this Agreement.
9. The Department shall require redistribution upon ten (10) days notice to the affected county when it determines that any county enhanced 911 excise tax has been distributed to a county other than the county entitled to the tax. Such redistribution shall not be made with respect to amounts originally distributed earlier than six (6) monthly periods before the monthly period in which the Department determines that improper distribution occurred. If a dispute arises between or among counties as to which county is entitled to particular funds collected under any county's enhanced 911 excise tax, the Department shall determine which county is entitled to the disputed funds. A dispute between a county and the Department regarding the Department's determination shall be resolved according to paragraph 12 of this Agreement.
10. The Department shall provide taxpayer information, documentation, and reports to the County in accordance with the disclosure limitations of RCW 82.32.330. Upon request by the County, the Department shall provide: the names of all taxpayers collecting the County's enhanced 911 excise taxes; the number of switched access lines, radio access lines, and interconnected voice over internet protocol service lines on which each taxpayer collected the County's enhanced 911 excise taxes by collection period; and the amount of the County's enhanced 911 excise tax, by

type of line, collected and remitted by each taxpayer by collection period. The Department shall not be obligated to provide this information more frequently than monthly. Insofar as practicable, the Department shall provide this information electronically. Authorized representatives of the County requesting and receiving confidential information must sign a Department Secrecy Clause Affidavit, acknowledging that they understand and will comply with RCW 82.32.330. Among other things, RCW 82.32.330 provides that unauthorized disclosure of confidential tax information is a misdemeanor. The County shall have the right from time to time to examine the records of the Department as they concern the County or the taxpayers of the County subject to the county enhanced 911 excise taxes, subject to the limitations of RCW 82.32.330.

11. The parties agree to establish and maintain open lines of communication and to work cooperatively in order to improve administration of the county enhanced 911 excise taxes. Either party may initiate a meeting, to be held at a mutually convenient time and place, to share information and to discuss matters related to administration and collection of county enhanced 911 excise taxes.

12. In the event that a dispute arises under this Agreement, either party may elect mediation in which the Department and County shall each individually appoint one member to a Dispute Board and those members shall select a third member.

In the event a dispute arises between or among counties as described in paragraph 9, a county that disagrees with the Department's resolution of the issue may elect mediation. In that case, each county claiming entitlement to the disputed funds and the Department shall individually appoint one member to a Dispute Board. If the number of members is odd, then no additional members need be appointed. If the number of members is even, then the members of the Dispute Board shall together select one additional member.

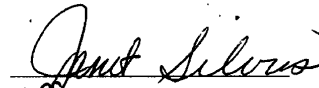
The Dispute Board shall evaluate the dispute and make a written determination after considering the relevant facts and legal authorities. The Dispute Board's determination shall be given significant weight by all parties who will meet after the determination is issued to resolve the dispute. If a resolution is not reached, the determination of the Dispute Board shall be admissible in any future legal proceeding between the parties concerning the dispute. Each party shall be responsible for a proportionate share of the costs of the members of the Dispute Board. This remedy is not intended to be exclusive of other remedies existing in law, by statute, or otherwise.

13. This Agreement shall be governed by the laws of the State of Washington.
14. To the extent permitted by law, the County agrees to defend and hold harmless the Department or the State of Washington from claims that challenge the authority of the County to impose the county enhanced 911 excise taxes identified in the aforementioned Ordinance. The County

understands that in the event of a legal challenge to the Ordinance or otherwise, the Department shall not be obligated to represent the County or otherwise to defend the County's position in any proceeding relating to such challenge.

15. The parties to this Agreement will notify each other in a timely manner when they find it necessary to request an amendment to this Agreement. No changes in or additions to this Agreement shall be made except as agreed to by both parties, reduced to writing, and executed with the same formalities as are required for the execution of this Agreement.
16. The following persons shall administer this Agreement on behalf of the parties. Any notice required by this Agreement shall be achieved by providing written notice to the persons listed below:

Tiffany Johnson
Department of Revenue
P.O. Box 47476
Suite 301
Olympia, WA 98504-7476
360-902-7122
TiffanyJ@dor.wa.gov


Jefferson County

ADDRESS 81 Elkins Rd, Port Hadlock WA
PHONE 360 344-9788 98339
EMAIL JSILVUS@JCSN.US

17. This Agreement represents the entire agreement between the parties and no other statements or representations shall be deemed a part thereof. The recitals to this Agreement are incorporated by reference and are part of the Agreement. This Agreement may be executed in two original counterparts, and each counterpart shall constitute but one and the same instrument. Duplicate copies of the Agreement shall have the same force and effect as the original copies.
18. The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the remainder of the contract.
19. This Agreement takes effect at 12:01 AM, January 1, 2011, and shall thereafter be automatically renewed on December 31 of each year unless one of the parties gives written notice of termination on or before November 1 of each such year.

IN WITNESS WHEREOF, the State of Washington Department of Revenue and Jefferson County have executed this Agreement as of the day and year written below.

Date

Deputy Director
Department of Revenue

Approved as to form: On file at WA DOR
Assistant Attorney General
State of Washington

Date

Title Chairman, Board of County
Jefferson County Commissioners

Approved as to form only:

Deputy Prosecuting Attorney