

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of County Commissioners

FROM: Philip Morley, County Administrator



DATE: October 28, 2013

RE: Hearing Notice for Proposed Ordinance Amending Jefferson County Code (JCC) Chapter 3.20 Establishing a County Enhanced 911 Excise Tax on the Sale of a Prepaid Wireless Telecommunication Service to an End User; Hearing Scheduled for Tuesday, November 12, 2013 at 11:30 a.m. in the Commissioners' Chambers

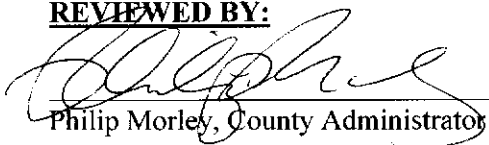
STATEMENT OF ISSUE: Request to set a public hearing date and publish a hearing notice for an amendment to Chapter 3.20 of the Jefferson County Code to extend an Excise Tax supporting Enhanced 911 emergency communications to include prepaid wireless telecommunications services.

ANALYSIS: As authorized by state law, the County presently has a \$0.70 Excise Tax on phones, cell phones and VOIP to support Enhanced 911 emergency communications provided by JeffCom. During the 2013 Legislative Session, the State Legislature passed and the Governor signed Second Engrossed Second Substitute House Bill 1971, which gives counties the authority to set an excise tax of up to \$0.70 on prepaid wireless telecommunications services. By exercising this authority, the County would be evening the retail playing field for different telecommunication providers, and also provide additional revenue to support emergency communications service by JeffCom to the growing number of citizens using prepaid cellphone services.

FISCAL IMPACT: If the County adopts the recommended ordinance after the proposed public hearing, the revenue would be collected by the State Department of Revenue beginning in 2014, and would be distributed back to JeffCom. This additional support for existing JeffCom services could help offset a small portion of the fees to JeffCom that all participating governments in JeffCom, including the County, presently pay to fund JeffCom's operations.

RECOMMENDATION: Pass a motion to set a public hearing date for Tuesday, November 12, 2013 at 11:30 a.m. and authorize the attached Hearing Notice.

REVIEWED BY:


Philip Morley, County Administrator

10/28/13
Date

Publish one (1) time: October 30, 2013
Bill: Jefferson County Commissioners Office
P.O. Box 1220
Port Townsend, WA 98368
Account: 15829 Non-Departmental

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing regarding a Proposed Ordinance Amending Jefferson County Code (JCC) Chapter 3.20 Establishing a County Enhanced 911 Excise Tax on the Sale of a Prepaid Wireless Telecommunication Service to an End User is scheduled by the Jefferson County Board of Commissioners for Tuesday, November 12, 2013 at 11:30 a.m. in the Commissioners' Chamber, County Courthouse, 1820 Jefferson Street, Port Townsend, WA 98368.

This Ordinance, if adopted, would impose an excise tax of \$.70 on the purchase of a pre-paid wireless telecommunications device and it would amend existing sections of the relevant County Code to reflect current excise tax amounts and current procedures. A summary of the sections of the Ordinance follows:

Section One-States the intent of the Ordinance is to amend Chapter 3.20

Section Two-Amends 3.20.040 regarding handling of excise tax revenues by Treasurer

Section Three-Amends 3.20.080 regarding excise tax on radio access lines (cell phones)

Section Four-Repeals two sections of Ch. 3.20 no longer needed

Section Five-Creates a new article relating to the new excise tax on pre-paid cell phones

Section Six-Creates definitions for the new article relating to pre-paid cell phones

Section Seven-Imposes a tax of \$.70 on each retail transaction where a pre-paid cell phone is purchased.

Section Eight-Lists the duties for sellers of pre-paid cell phones

Section Nine-Lists criminal penalties for violations of the new state law regarding the excise tax imposed on the sale of a pre-paid cell phone

Section Ten-Severability clause

A complete copy of the proposed Ordinance will be provided to the requester upon request to the County Commissioners at P.O. Box 1220, Port Townsend, WA 98368, 360-385-9100 or e-mail request to jeffbocc@co.jefferson.wa.us

Approved this 28th day of October, 2013.

JEFFERSON COUNTY BOARD OF COMMISSIONERS

John Austin, Chairman

STATE OF WASHINGTON
County of Jefferson



An Ordinance Establishing a County)
Enhanced 911 Excise Tax on the Sale)
of a Prepaid Wireless Telecommunication)
Service to an End User)

ORDINANCE NO. _____

WHEREAS, the communications industry is undergoing rapid change due to technological advances and deregulation; and

WHEREAS, the State Legislature concluded Washington's tax system has not kept pace with this industry; and

WHEREAS, there are a vast array of state taxes and other charges on communications services in Washington that were established for a far different technological, legal, and structural landscape than what exists today; and

WHEREAS, the Legislature enacted and the Governor signed 2E2SHB 1971 to address the vast disparity in tax policy for communications services in an effort to minimize the existing inequity, inefficiency, and administrative complexity while preserving revenue sufficiency.

NOW, THEREFORE, BE IT ORDAINED by the Jefferson County Board of County Commissioners as follows:

Section One: That Jefferson County Code, Chapter 3.20, entitled "Enhanced 911 Emergency System Excise Taxes" be amended as described below.

Section Two: That current Jefferson County Code §3.20.040 is amended to read in its entirety as follows:

"There is hereby created a special account known as the "Jeffcom General Fund" account with the County Treasurer. The Treasurer may change the name of this account at his or her discretion, but not its function. All excise taxes levied pursuant to this chapter shall be placed in said account for the purpose of paying all or any part of the cost of all expenses related to the planning, acquisition, installation, addition, improvement, replacement, repair, maintenance or operation of an Enhanced 911 telephone system, including reimbursement to the local exchange companies for actual costs of administration and collection of the tax imposed."

Section Three: That current Jefferson County Code §3.20.080 is amended to read in its entirety as follows:

"There is hereby levied a per month excise tax in the amount listed in JCC 3.20.010 on each radio access line whose place of primary use, as defined in RCW 82.14B.020(7) as currently enacted or hereafter amended, is within Jefferson County, said excise tax to assist in financing the Jefferson County emergency communications system."

Section Four: That current Jefferson County Code §3.20.060 and §3.20.085 are hereby repealed and not replaced.

Section Five: That there be added to Chapter 3.20, a new Article entitled “Prepaid Wireless Telecommunications Service.”

Section Six: That within the new Article to be made part of Chapter 3.20 there be added a new Section entitled “Definitions” which shall read in its entirety as follows:

‘Consumer’ shall have for purposes of this Chapter the same definition as found at RCW 82.14B.020(1), as that state law may hereafter be amended.

‘Prepaid wireless telecommunications service’ shall have for purposes of this Chapter the same definition as found at RCW 82.14B.020(8), as that state law may hereafter be amended.

‘Seller’ shall have for purposes of this Chapter the same definition as found at RCW 82.14B.020(13), as that state law may hereafter be amended.

‘Subscriber’ shall have for purposes of this Chapter the same definition as found at RCW 82.14B.020(14), as that state law may hereafter be amended.

Section Seven: That within the new Article to be made part of Chapter 3.20 there be added a new Section entitled “Imposed” which shall read in its entirety as follows:

“Effective January 1, 2014, there shall be imposed upon a Consumer whose retail transaction for the purchase of a Prepaid wireless telecommunications service occurs within Jefferson County a county enhanced 911 excise tax of seventy cents (\$0.70) per retail transaction.”

Section Eight: That within the new Article to be made part of Chapter 3.20 there be added a new section called “Duties of a Seller” which shall read in its entirety as follows:

“A Seller, as defined in this Article, shall have the following duties with respect to the sale of a Prepaid wireless communication service to a Consumer: to 1) collect from the Consumer the full amount of the excise tax described in this Article, 2) insure and require the uniformity of the size of the excise tax described in this Article for all such retail transactions, 3) provide to the Consumer a sales invoice or instrument of sale which separately states the taxes to be collected pursuant to this Article, and 4) remit the excise tax collected pursuant to this Article to the WA State Department of Revenue on a tax return or form provided by that state agency.”

Section Nine: That within the new Article to be made part of Chapter 3.20 there be added a new section called “Criminal Penalties” which shall read in its entirety as follows:

“(1) Any Seller that appropriates or converts the tax collected under Ch. 82.14B RCW or Ch. 3.20 to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) Any Seller that fails or refuses to collect the tax due under Ch. 82.14B RCW or Ch. 3.20 JCC as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect is guilty of a misdemeanor.”

Section Ten: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is held invalid the remainder or application of this Ordinance to other persons or circumstances shall not be affected.

Approved this _____ day of November, 2013.

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

SEAL:

John Austin, Chair

ATTEST:

Phil Johnson, Member

Carolyn Avery,
Deputy Clerk of the Board

David Sullivan, Member

APPROVED AS TO FORM:

David Alvarez,
Deputy Prosecuting Attorney