MEMORANDUM

TO: Legislators, Directors, Staff and Media

FROM: Jamie L. Slocum, Clerk of the Legislature

DATE: May 12, 2014

RE: Matters of Urgency – File Nos. 14-0163 and 14-0164

14-0163 Home Rule Message for Senate Bill No. S.5809 Entitled “AN ACT to amend the county law, in relation to wireless surcharges in Monroe county” – As A Matter of Urgency – County Executive Maggie Brooks

14-0164 Home Rule Message for Assembly Bill No. A.8035 Entitled “AN ACT to amend the county law, in relation to wireless surcharges in Monroe county” – As A Matter of Urgency – County Executive Maggie Brooks

Per President Jeffrey R. Adair, the attached communication is declared to be a Matter of Urgency pursuant to Section 545-24 (A) (3) of the Rules of the Monroe County Legislature and will be considered at the May 13, 2014 meeting of the Monroe County Legislature.

Attachments.
May 12, 2014

To The Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Subject: Home Rule Message for Senate Bill No. S.5809 Entitled "AN ACT to amend the county law, in relation to wireless surcharges in Monroe county"

Honorable Legislators:

I recommend that Your Honorable Body adopt a home rule message in regard to the above bill which will amend the New York State County Law by adding a new section in relation to wireless surcharges in Monroe county.

This legislation would authorize the Monroe County Legislature, by local law, to establish a wireless surcharge not to exceed thirty cents per month on wireless communications service in the County of Monroe. The additional funds collected through this surcharge will be used by the County for payment of system costs or other costs associated with the design, construction, operation, maintenance and administration of public safety communication networks serving the County.

The specific legislative action required is to adopt a home rule message resolution for Senate Bill No. S.5809 Entitled “AN ACT to amend the county law, in relation to wireless surcharges in Monroe county."

This action will have no impact on the revenues or expenditures of the current Monroe County budget.

I recommend that this matter receive favorable action by Your Honorable Body.

Sincerely,

Maggie Brooks
County Executive
STATE OF NEW YORK

5809
2011-2014 Regular Sessions
IN SENATE
June 17, 2013

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules.

AN ACT to amend the county law, in relation to wireless surcharges in Monroe county.

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The county law is amended by adding a new section 308-y to read as follows:

§ 308-y. Establishment of County of Monroe wireless surcharge. 1. Notwithstanding the provisions of any law to the contrary, the county of Monroe, acting through its local county legislative body, is hereby authorized and empowered to adopt, amend or repeal local laws to impose a surcharge in an amount not to exceed thirty cents per month on wireless communications service in Monroe County. The surcharge shall be imposed on each wireless communications device and shall be reflected and made payable on bills rendered for wireless communications service that is provided to a customer whose place of primary use is within the county. For purposes of this section, the term "place of primary use" shall mean the street address that is representative of where the customer's use of the wireless communications service primarily occurs, which address must be: (A) the residential street address or the primary business street address of the customer; and (B) within the licensed service area of the wireless communications service supplier.

2. Any local law adopted pursuant to this section shall state the amount of the surcharge and the date on which the wireless communications service supplier shall begin to add such surcharge to the billings of its customers. Any wireless communications service supplier within Monroe County which has imposed a surcharge pursuant to the provisions of this section shall be given a minimum of forty-five days written notice prior to the date it shall begin to add such surcharge to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11539-01-3
3. (A) Each wireless communications service supplier serving Monroe County shall act as collection agent for the county and shall remit the funds collected pursuant to a surcharge imposed under the provisions of this section to the chief fiscal officer of Monroe County every month. Such funds shall be remitted no later than thirty days after the last business day of the month.

(B) Each wireless communications service supplier shall be entitled to retain, as an administrative fee, an amount equal to two percent of its collections of a surcharge imposed under the provisions of this section.

(C) Any surcharge required to be collected by a wireless communications service supplier shall be added to and stated separately in its billings to customers.

(D) Each wireless communications service customer who is subject to the provisions of this section shall be liable to Monroe County for the surcharge until it has been paid to Monroe County except that payment to a wireless communications service supplier is sufficient to relieve the customer from further liability for such surcharge.

(E) No wireless communications service supplier shall have a legal obligation to enforce the collection of any surcharge imposed under the provisions of this section, provided, however, that whenever the wireless communications service supplier remits the funds collected to Monroe County, it shall also provide Monroe County with the name and address of any customer refusing or failing to pay a surcharge imposed under the provisions of this section and shall state the amount of such surcharge remaining unpaid.

(F) Each wireless communications service supplier shall annually provide to Monroe County an accounting of the surcharge amounts billed and collected.

4. All surcharge monies remitted to Monroe County by a wireless communications service supplier shall be expended only upon authorization of the local county legislative body and only for payment of eligible wireless 911 service costs as defined in subdivision sixteen of section three hundred twenty-five of this chapter. The county of Monroe shall separately account for and keep adequate books and records of the amount and source of all such monies and of the amount and object or purpose of all expenditures thereof. If, at the end of any fiscal year, the total amount of all such monies exceeds the amount necessary for payment of the above mentioned costs in such fiscal year, such excess shall be reserved and carried over for the payment of those costs in the following fiscal year.
required pursuant to the provisions of subdivision 2 of such section
3 308-y; provided further, that a wireless communications service supplier
4 may treat the address used by such supplier for any wireless communi-
5 cations customer under a service contract or agreement in effect on the
6 effective date of the local law imposing such surcharge, as that wire-
7 less communications customer's place of primary use for the remaining
8 term of such service contract or agreement, excluding any extension or
9 renewal of such service contract or agreement, for purposes of determin-
10 ing the taxing jurisdiction with respect to taxes on wireless communi-
11 cations service.
By Legislators _______ and _______

Intro. No. ____

RESOLUTION NO. ____ OF 2014

REQUESTING THE SENATE OF THE STATE OF NEW YORK PURSUANT TO ARTICLE IX OF THE CONSTITUTION TO ENACT INTO LAW SENATE BILL NO. S.5809 ENTITLED "AN ACT TO AMEND THE COUNTY LAW, IN RELATION TO WIRELESS SURCHARGES IN MONROE COUNTY"

RESOLVED, that pursuant to Article IX of the Constitution, the Legislature of the County of Monroe does hereby request the enactment of legislation as follows:

Senate Bill No. S.5809 entitled "AN ACT to amend the county law, in relation to wireless surcharges in Monroe county"

and be it further

RESOLVED, that this resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Matter of Urgency
File No. 14-0____s

ADOPTION: Date: ____________ Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED:_______ VETOED:_______

SIGNATURE:________________________ DATE: __________

EFFECTIVE DATE OF RESOLUTION: __________________
May 12, 2014

To The Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Subject: Home Rule Message for Assembly Bill No. A.8035 Entitled "AN ACT to amend the county law, in relation to wireless surcharges in Monroe county"

Honorable Legislators:

I recommend that Your Honorable Body adopt a home rule message in regard to the above bill which will amend the New York State County Law by adding a new section in relation to wireless surcharges in Monroe county.

This legislation would authorize the Monroe County Legislature, by local law, to establish a wireless surcharge not to exceed thirty cents per month on wireless communications service in the County of Monroe. The additional funds collected through this surcharge will be used by the County for payment of system costs or other costs associated with design, construction, operation, maintenance and administration of public safety communication networks serving the County.

The specific legislative action required is to adopt a home rule message resolution for Assembly Bill No. A.8035 Entitled "AN ACT to amend the county law, in relation to wireless surcharges in Monroe county."

This action will have no impact on the revenues or expenditures of the current Monroe County budget.

I recommend that this matter receive favorable action by Your Honorable Body.

Sincerely,

Maggie Brooks
County Executive
STATE OF NEW YORK

8035

2013-2014 Regular Sessions

IN ASSEMBLY

June 17, 2013

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Local Governments

An ACT to amend the county law, in relation to wireless surcharges in Monroe county

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The county law is amended by adding a new section 308-y to read as follows:

§ 308-y. Establishment of county of Monroe wireless surcharge. 1. Notwithstanding the provisions of any law to the contrary, the county of Monroe, acting through its local county legislative body, is hereby authorized and empowered to adopt, amend or repeal local laws to impose a surcharge in an amount not to exceed thirty cents per month on wireless communications service in Monroe County. The surcharge shall be imposed on each wireless communications device and shall be reflected and made payable on bills rendered for wireless communications service that is provided to a customer whose place of primary use is within the county. For purposes of this section, the term "place of primary use" shall mean the street address that is representative of where the customer's use of the wireless communications service primarily occurs, which address must be: (A) the residential street address or the primary business street address of the customer; and (B) within the licensed service area of the wireless communications service supplier.

2. Any local law adopted pursuant to this section shall state the amount of the surcharge and the date on which the wireless communications service supplier shall begin to add such surcharge to the bills of its customers. Any wireless communications service supplier within Monroe County which has imposed a surcharge pursuant to the provisions of this section shall be given a minimum of forty-five days written notice prior to the date it shall begin to add such surcharge to

Explanaton--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11539-01-3
THE BILLINGS OF ITS CUSTOMERS OR PRIOR TO ANY MODIFICATION TO OR CHANGE IN THE SURCHARGE AMOUNT.

3. (A) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SERVING MONROE COUNTY SHALL ACT AS COLLECTION AGENT FOR THE COUNTY AND SHALL REMIT THE FUNDS COLLECTED PURSUANT TO A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION TO THE CHIEF FISCAL OFFICER OF MONROE COUNTY EVERY MONTH.

SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST BUSINESS DAY OF THE MONTH.

(B) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ENTITLED TO RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF ITS COLLECTIONS OF A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION.

(C) ANY SURCHARGE REQUIRED TO BE COLLECTED BY A WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ADDED TO AND STATED SEPARATELY IN ITS BILLINGS TO CUSTOMERS.

(D) EACH WIRELESS COMMUNICATIONS SERVICE CUSTOMER WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL BE LIABLE TO MONROE COUNTY FOR THE SURCHARGE UNTIL IT HAS BEEN PAID TO MONROE COUNTY EXCEPT THAT PAYMENT TO A WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT TO RELIEVE THE CUSTOMER FROM FURTHER LIABILITY FOR SUCH SURCHARGE.

(E) NO WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL HAVE A LEGAL OBLIGATION TO ENFORCE THE COLLECTION OF ANY SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION, PROVIDED, HOWEVER, THAT WHENEVER THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER REMITS THE FUNDS COLLECTED TO MONROE COUNTY, IT SHALL ALSO PROVIDE MONROE COUNTY WITH THE NAME AND ADDRESS OF ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT OF SUCH SURCHARGE REMAINING UNPAID.

(F) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL ANNUALLY PROVIDE TO MONROE COUNTY AN ACCOUNTING OF THE SURCHARGE AMOUNTS BILLED AND COLLECTED.


S 2. Subdivision 16 of section 325 of the county law, as added by section 1 of part G of chapter 81 of the laws of 2002, is amended to read as follows:

16. "Eligible wireless 911 service costs" shall mean costs eligible for reimbursement and shall include the actual costs incurred by the locality related to the design, installation, OPERATION, or maintenance of a system to provide enhanced wireless 911 service, including, but not limited to, hardware, software, consultants, financing and other acquisition costs.

S 3. This act shall take effect immediately; provided, however, that the provisions of subdivision 1 of section 308-y of the county law, as added by section one of this act shall apply to bills rendered to wireless communications service customers by a wireless communications service supplier on and after the expiration of the notice period.
required pursuant to the provisions of subdivision 2 of such section
308-y; provided further, that a wireless communications service supplier
may treat the address used by such supplier for any wireless communi-
cations customer under a service contract or agreement in effect on the
effective date of the local law imposing such surcharge, as that wire-
less communications customer's place of primary use for the remaining
term of such service contract or agreement, excluding any extension or
renewal of such service contract or agreement, for purposes of determin-
ing the taxing jurisdiction with respect to taxes on wireless communi-
cations service.
By Legislators _______ and _______

Intro. No. _____

RESOLUTION NO. _____ OF 2014

REQUESTING THE ASSEMBLY OF THE STATE OF NEW YORK PURSUANT TO ARTICLE IX OF THE CONSTITUTION TO ENACT INTO LAW ASSEMBLY BILL NO. A.8035 ENTITLED “AN ACT TO AMEND THE COUNTY LAW, IN RELATION TO WIRELESS SURCHARGES IN MONROE COUNTY”

RESOLVED, that pursuant to Article IX of the Constitution, the Legislature of the County of Monroe does hereby request the enactment of legislation as follows:

Assembly Bill No. A.8035 entitled “AN ACT to amend the county law, in relation to wireless surcharges in Monroe county”

and be it further

RESOLVED, that this resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Matter of Urgency
File No. 14-0____a

ADOPTION: Date: ______________ Vote: ___

ACTION BY THE COUNTY EXECUTIVE

APPROVED: ___________ VETOED: ___________

SIGNATURE: ______________________ DATE: ______________

EFFECTIVE DATE OF RESOLUTION: __________________