

State of Wisconsin



2003 Assembly Bill 61

Date of enactment: **August 18, 2003**
Date of publication*: **September 2, 2003**

2003 WISCONSIN ACT 48

(Vetoed in Part)

AN ACT *to amend* 146.70 (7); *to repeal and recreate* 146.70 (3m) (d) 1g.; *to create* 20.155 (3), **22.07 (3m)**, 25.17 (1) (yo), 25.98, 77.51 (4) (b) 8., 77.51 (15) (b) 7. and 146.70 (3m) of the statutes; and *to affect* [1997 Wisconsin Act 27](#), section [9456](#) (3m) and [1997 Wisconsin Act 27](#), section [9456](#) (3m) (b); **relating to:** creating a wireless 911 fund; imposing a surcharge on wireless telephone customers; making grants for wireless 911 emergency telephone service; granting rule-making authority; and making an appropriation.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.155 (3) of the statutes is created to read:

20.155 (3) WIRELESS 911 GRANTS. (q) *General program operations and grants.* From the wireless 911 fund, all moneys received under s. 146.70 (3m) (f) 1. to administer and make grants under s. 146.70 (3m) (d) and supplemental grants under s. 146.70 (3m) (e).

SECTION 2. **22.07 (3m)** of the statutes is created to read:

22.07 (3m) Administer a program to facilitate purchases, leases, and service contracts by local governments that operate wireless public safety answering points, as defined in s. 146.70 (3m) (a) 7. In administering the program under this subsection, the department shall, to the greatest extent practicable, ensure that such wireless public safety answering points are compatible with existing public safety answering points, as defined in s. 146.70 (1) (gm).

SECTION 3. 25.17 (1) (yo) of the statutes is created to read:

25.17 (1) (yo) Wireless 911 fund (s. 25.98);

SECTION 4. 25.98 of the statutes is created to read:
25.98 Wireless 911 fund. There is established a separate nonlapsible trust fund designated as the wireless 911 fund, consisting of deposits by the public service commission under s. 146.70 (3m) (f) 1.

SECTION 5. 77.51 (4) (b) 8. of the statutes is created to read:

77.51 (4) (b) 8. The surcharge established in rules of the public service commission under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70 (3m) (a) 6.

SECTION 6. 77.51 (15) (b) 7. of the statutes is created to read:

77.51 (15) (b) 7. The surcharge established in rules of the public service commission under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70 (3m) (a) 6.

SECTION 7. 146.70 (3m) of the statutes is created to read:

146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

1. "Commercial mobile radio service provider" has the meaning given in s. 196.01 (2g).

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* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2. "Commission" means the public service commission.

3. "Federal wireless orders" means the orders of the federal communications commission regarding 911 emergency services for wireless telephone users in FCC docket no. 94-102.

4. "Local government" means a city, village, town, or county, or an entity formed by a contract under s. 66.0301 (2) by a city, village, town, or county.

5. "Reimbursement period" means the period beginning on the effective date of this subdivision [revisor inserts date], and ending on the last day of the 3-year period beginning on the first day of the 2nd month beginning after the effective date of the rules promulgated under par. (f) 1.

6. "Wireless provider" means a commercial mobile radio service provider that is subject to the federal wireless orders.

7. "Wireless public safety answering point" means a facility to which a person dialing the digits "911" on a wireless provider's system is initially routed for response, and on which a public agency directly dispatches the appropriate emergency service provider, relays a message to the appropriate emergency service provider, transfers the call to the appropriate emergency services provider, or relays a message or transfers the call to a local government emergency call center that dispatches the appropriate emergency services provider.

(am) *Designated public safety answering points.* A wireless public safety answering point shall be a designated public safety answering point for the purpose of implementing the federal wireless orders only if the wireless public safety answering point is identified in a resolution adopted under par. (c) 3. or 6.

(b) *Grant applications; wireless providers.* 1. Except as provided in subd. 2. and par. (d) 1e., a wireless provider may not receive a grant under par. (d) unless, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., the wireless provider applies to the commission with an estimate, and supporting documentation, of the costs that it has incurred, or will incur, during the reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the federal wireless orders in this state. The estimate may not include, and a wireless provider may not seek reimbursement for, any such costs that the wireless provider recovers or has recovered from customers in this state during or before the reimbursement period for the implementation of wireless 911 emergency service in this state.

2. A wireless provider that does not provide service to customers in this state prior to the effective date of this subdivision [revisor inserts date], may make an application under subd. 1. after the date specified in

subd. 1. pursuant to rules promulgated by the commission under par. (d) 4.

(c) *Grant applications; local governments.* 1. Except as provided in par. (d) 1e., a local government that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point, may not receive a grant under par. (d) unless the requirements under subds. 3. to 5. are satisfied and, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., every county which itself is one of the local governments or in which any of the local governments is located applies to the commission with an estimate, and supporting documentation, of the costs specified in subd. 1r. and the costs that the local government or local governments have directly and primarily incurred, or will directly and primarily incur, during the reimbursement period for leasing, purchasing, operating, or maintaining the wireless public safety answering point, including costs for all of the following:

a. Necessary network equipment, computer hardware and software, database equipment, and radio and telephone equipment, that are located within the wireless public safety answering point.

b. Training operators of a wireless public safety answering point.

c. Network costs for delivery of calls from a wireless provider to a wireless public safety answering point.

d. Collection and maintenance of data used by the wireless public safety answering point, including data to identify a caller and the location of a caller.

e. Relaying messages regarding wireless emergency 911 telephone calls via data communications from the wireless public safety answering point to local government emergency call centers in operation before June 1, 2003, that dispatch the appropriate emergency service providers, but only if the rules promulgated under par. (d) 4. allow for reimbursement of such costs.

1m. The estimate under subd. 1. may not include, and a local government may not seek reimbursement for, any costs described in subd. 1. that the local government recovers in the form of a gift or grant received by the local government for the purposes described in subd. 1.

1r. An application under subd. 1. may include an estimate of costs directly and primarily incurred by the local government or local governments between January 1, 1999, and the effective date of this subdivision [revisor inserts date], for any of the costs identified in subd. 1. a. and d.

2. If an application under subd. 1. is for the joint operation of a wireless public safety answering point by local governments, the application shall specify the manner in which the estimated costs are apportioned among the local governments.

3. A local government that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point, are not eligible for grants under par. (d) unless, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., every county which itself is one of the local governments or in which any of the local governments is located has passed a resolution specifying that the wireless public safety answering point is eligible for the grants. Except as provided in subd. 4., only one wireless public safety answering point in each county is eligible for local governments to receive grants under par. (d).

4. If a county or local government in a county jointly operates a wireless public safety answering point with another county or local government in another county, the resolution passed by each county under subd. 3. shall specify the same wireless public safety answering point, and the counties shall submit a joint application under subd. 1. that complies with the requirement under subd. 2. In each county that submits a joint application, only the wireless public safety answering point specified in the resolutions is eligible for local governments to receive grants under par. (d).

5. Except as provided in subd. 6. a., a local government that operates, or local governments that jointly operate, a wireless public safety answering point are not eligible for grants under par. (d) unless the wireless public safety answering point serves the entire geographic area of all of the following:

a. For each local government that is not a county, each county in which the local government is located.

b. For each local government that is a county, the county itself.

6. a. A local government is not required to serve, with its wireless public safety answering point, the area of a city, village, or town that, by resolution, states its intention to establish a wireless public safety answering point separate from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town is located. A city, village, or town that adopts a resolution under this subd. 6. a. shall ensure that its entire geographic area is served by another wireless public safety answering point.

b. A city, village, or town that adopts a resolution under subd. 6. a. is not required to receive wireless 911 emergency service from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town is located. A city, village, or town that rescinds a resolution adopted under subd. 6. a. is required to receive wireless 911 emergency service from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town located, unless the city, village, or town subsequently adopts a new resolution under subd. 6. a.

c. A city, village, or town that adopts a resolution under subd. 6. a. shall submit a copy of the resolution to the county in which it is located and to the commission.

(d) *Grants; commission approval and rules.* 1. The commission shall approve an application under par. (b) or (c) if the commission determines that the costs estimated in the application are reasonable and have been, or will be, incurred for the purpose of promoting a cost-effective and efficient statewide system for responding to wireless emergency 911 telephone calls and, for an application under par. (c), if the requirements under subd. 1g. are satisfied.

1e. If a wireless provider or local government submits an application after the deadline specified in par. (b) 1. or (c) 1. (intro.), the commission shall reduce the costs approved under subd. 1. by the following amounts:

a. If the application is no more than 1 week late, 5%.

b. If the application is 1 week or more but less than 2 weeks late, 10%.

c. If the application is 2 weeks or more but less than 4 weeks late, 25%.

d. If the application is 4 weeks or more late, the wireless provider or local government is not eligible for a grant.

1g. If an application under par. (c) includes an estimate of costs identified in par. (c) 1. d. incurred during the reimbursement period or between January 1, 1999, and the effective date of this subdivision ... [revisor inserts date], the commission may approve the application only if the commission determines that the local government's collection of land information, as defined in s. 16.967 (1) (b), and development of a land information system, as defined in s. 16.967 (1) (c), that is related to that purpose are consistent with the applicable county land records modernization plans developed under s. 59.72 (3) (b), conform to the standards on which such plans are based, and do not duplicate land information collection and other efforts funded through the land information program under s. 16.967 (7). The commission shall obtain the advice of the land information board in making determinations under this subdivision.

1r. If the commission does not approve an application under subd. 1., the commission shall provide the applicant or applicants with the commission's reasons and give the applicant or applicants an opportunity to resubmit the application.

2. From the appropriation under s. 20.155 (3) (q), the commission shall make grants to reimburse wireless providers and local governments for costs approved under subd. 1. that are actually incurred by the wireless providers and local governments, except that no wireless provider or local government may receive a total amount in grants that exceeds the estimated amount approved by the commission under subd. 1. for that wireless provider or local government. For applications for the joint operation of a wireless public safety answering point, the com-

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mission shall apportion the grants in the manner specified under par. (c) 2.

3. No grant to a local government under subd. 2. may be used to reimburse costs for any of the following:

a. Emergency service dispatch, including personnel, training, equipment, software, records management, radio communications, and mobile data network systems.

b. Vehicles and equipment in vehicles.

c. Communications equipment and software used to communicate with vehicles.

d. Real estate and improvements to real estate, other than improvements necessary to maintain the security of a wireless public safety answering point.

e. Salaries and benefits of operators of a wireless public safety answering point.

4. The commission shall promulgate rules establishing requirements and procedures for making grants under this paragraph, including criteria for approving estimated costs under subd. 1. The rules shall require the commission to make the grants during the 3-year period beginning on the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (f) 1. The rules shall include record-keeping requirements to ensure that the grants are used to reimburse estimated costs approved by the commission. The rules shall allow the commission to make the grants in installments. The rules shall also include requirements for wireless providers specified in par. (b) 2. to apply for grants. The rules shall specify the conditions under which a wireless provider or local government may revise an application approved under subd. 1.

4m. The rules promulgated under subd. 4. may allow local governments to receive grants for reimbursement of the costs described in par. (c) 1. e., but only if the commission collects information regarding the expected amount of such costs and the commission determines that the expected amount of the costs is no more than 5% of the overall cost of the statewide system for responding to wireless emergency 911 telephone costs and that reimbursement of such costs is in the public interest, promotes public health and safety, and is not a disincentive to consolidation of dispatch functions by local government emergency call centers. If the rules promulgated under subd. 4. allow for reimbursement of the costs described in par. (c) 1. e., the commission shall include the information that the commission is required to collect under this subdivision in the report required for the rules under s. 227.19 (3) .

5. To the greatest extent practicable, a local government that receives a grant under this paragraph shall make all purchases, leases, and service contracts under the grant through the program under s. 22.07 (3m). If a local government makes a purchase, lease, or service contract outside the program under s. 22.07 (3m) when a practicable option for that purchase, lease, or service

contract is available at a lower price under the program under s. 22.07 (3m), the commission shall reduce the amount of the local government's grant that is related to that purchase, lease, or service contract to reflect the lower price. If a local government has made a purchase, lease, or service contract outside the program under s. 22.07 (3m) when a practicable option for that purchase, lease, or service contract subsequently becomes available at a lower price under the program under s. 22.07 (3m), the commission shall reduce the amount of the local government's grant that is related to that purchase, lease, or service contract to reflect the lower price.

6. If the commission approves an application under subd. 1., the wireless provider or a local government that submitted the application may, before the commission makes a grant award to the wireless provider or local government, revise the application pursuant to the rules promulgated under subd. 4.

(e) *Supplemental grants.* The commission shall promulgate rules for making supplemental grants from the appropriation under s. 20.155 (3) (q) to counties that submit joint applications required under par. (c) 4. The rules shall establish the supplemental grants in amounts that provide an incentive for counties to submit joint applications. The rules may not impose any limits on the use of a supplemental grant and shall allow the commission to make the grants in installments.

(f) *Wireless surcharge.* 1. The commission shall promulgate rules requiring each wireless provider to impose the same monthly surcharge for each telephone number of a customer that has a billable address in this state, except that the rules shall adjust the amount of the surcharge that is imposed on customers who prepay for service to ensure that such customers pay an amount that is comparable to the monthly amount paid by other customers. The rules shall require the surcharge to be imposed during the 3-year period beginning on the first day of the 2nd month beginning after the effective date of the rules. The amount of the surcharge shall be sufficient for the commission to administer and make the grants under par. (d) and the supplemental grants under par. (e). The rules shall require wireless providers to pay the surcharge to the commission for deposit in the wireless 911 fund.

2. The commission may promulgate rules that increase or decrease the surcharge, except that the commission may not increase the surcharge more than once per year and any increase must be uniform statewide.

3. A wireless provider shall identify the surcharge on a customer's bill on a separate line that consists of the words "federal wireless 911 mandate fee."

4. The commission may bring an action to collect a surcharge that is not paid by a customer and the customer's wireless provider is not liable for the unpaid surcharge.

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(g) *Confidentiality of information.* The commission shall withhold from public inspection any information received under this subsection that would aid a competitor of a wireless provider in competition with the wireless provider.

(h) *Other charges prohibited.* No local government or state agency, as defined in s. 16.375 (1), except the commission, may require a wireless provider to collect or pay a surcharge or fee related to wireless emergency telephone service.

(i) *Commission authority.* Nothing in this section affects the exemption from commission authority for commercial mobile radio service providers in s. 196.202.

(j) *Sunset.* This subsection does not apply after the first day of the 42nd month beginning after the effective date of the rules promulgated under par. (f) 1.

SECTION 8. 146.70 (3m) (d) 1g. of the statutes, as created by 2003 Wisconsin Act (this act), is repealed and recreated to read:

146.70 (3m) (d) 1g. If an application under par. (c) includes an estimate of costs for the purpose described in par. (c) 1. d., the commission may approve the application only if the commission determines that the local government's collection of land information, as defined in s. 16.967 (1) (b), 2001 stats., and development of a land information system, as defined in s. 16.967 (1) (c), 2001 stats., that is related to that purpose are consistent with the applicable county land records modernization plans developed under s. 59.72 (3) (b), 2001 stats., conform to the standards on which such plans are based, and do not duplicate land information collection and other efforts funded through the land information program under s. 16.967 (7), 2001 stats.

SECTION 9. 146.70 (7) of the statutes is amended to read:

146.70 (7) ~~TELECOMMUNICATIONS UTILITY NOT LIABLE LIABILITY EXEMPTION.~~ A telecommunications utility, wireless provider, as defined in sub. (3m) (a) 6., or local government, as defined in sub. (3m) (a) 4., shall not be liable to any person who uses an emergency number system created under this section or makes an emergency telephone call initially routed to a wireless public safety answering point, as defined in sub. (3m) (a) 7.

SECTION 10. 1997 Wisconsin Act 27, section 9456 (3m) is renumbered 1997 Wisconsin Act 27, section 9456 (3m) (a) and amended to read:

[1997 Wisconsin Act 27] Section 9456 (3m) (a) The treatment of sections 15.07 (1) (b) 16., 15.105 (16), 16.968 (by SECTION 142am), 20.505 (1) (title) (by SECTION 666h), section 20.505 (1) (ka) (by SECTION 669am), 23.27 (3) (a) (by SECTION 769ad), 23.325 (1) (a), 36.09 (1) (e), 36.25 (12m) (intro.), 59.43 (2) (ag) 1. and (e), 59.72 (1) (a) and (b), (3) (intro.), (a) and (b) and (5) and 92.10 (4) (a) of the statutes, and the repeal of sections 16.966 (1), and (2) and (4), 16.967, 20.505 (1) (ie), (ig), (ij) and (ks), 23.32 (2) (d), 59.43 (1) (u) and 59.72 (1) (am), (3) (c) and (4) of the statutes and SECTION 9101 (1) of this act take effect on September 1, 2003.

SECTION 11. 1997 Wisconsin Act 27, section 9456 (3m) (b) is created to read:

[1997 Wisconsin Act 27] Section 9456 (3m) (b) The treatment of sections 15.07 (1) (b) 16., 15.105 (16), 16.968 (by SECTION 142am), 20.505 (1) (title) (by SECTION 666h), 23.27 (3) (a) (by SECTION 769ad), 23.325 (1) (a), 36.09 (1) (e), 36.25 (12m) (intro.), 59.43 (2) (ag) 1. and (e), 59.72 (1) (a) and (b), (3) (intro.), (a), and (b) and (5) and 92.10 (4) (a) of the statutes, the repeal of sections 16.966 (4), 16.967, 20.505 (1) (ie), (ig), and (ij), 23.32 (2) (d), 59.43 (1) (u), and 59.72 (1) (am), (3) (c), and (4) of the statutes and SECTION 9101 (1) of this act take effect on July 1, 2005.

SECTION 12. Nonstatutory provisions.

(1) PROPOSED RULES.

(a) *Wireless 911 surcharge rules.* The public service commission shall submit in proposed form the rules required under section 146.70 (3m) (f) 1. of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the 1st day of the 6th month beginning after the effective date of the rules promulgated under section 146.70 (3m) (d) 4. of the statutes, as created by this act.

(b) *Wireless 911 grant rules.* The public service commission shall submit in proposed form the rules required under section 146.70 (3m) (d) 4. and (e) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this paragraph.

SECTION 13. Effective dates. This act takes effect on the day after publication, except as follows:

(1) SUNSET OF LAND INFORMATION BOARD. The repeal and recreation of section 146.70 (3m) (d) 1g. of the statutes takes effect on July 1, 2005.