



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-4975/P1  
MDK:kmg:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to create 15.155 (5), 20.143 (3) (je), 20.143 (3) (jm), 20.143 (3) (js), 20.143  
 2 (3) (kv) and 146.70 (3m) of the statutes; relating to: creating a wireless 911  
 3 board imposing a surcharge on wireless telephone customers, making grants  
 4 for 911 emergency telephone service, providing an exemption from  
 5 rule-making procedures, granting rule-making authority, and making  
 6 appropriations.

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*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be prepared for a subsequent version of the draft.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

INSERT 4-1:

7 SECTION 1. 15.155 (5) of the statutes is created to read:



INSERT 7-1 (confid)

1 to the legislature under s. 13.172 (2), that describes the costs incurred by wireless  
2 providers and public agencies in providing emergency wireless telephone service and  
3 the grants made by the board.

4 (j) *Board powers.* The board shall possess all powers necessary or convenient  
5 for administering the requirements of this subsection.

6 (k) *Sunset.* This subsection does not apply after the first day of the 60th month  
7 beginning after the effective date of this paragraph .... [revisor inserts date].

END of INSERT 7-1

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~~SECTION 7. Nonstatutory provisions.~~

(1) WIRELESS 911 SURCHARGE RULES.

(a) *Definition.* In this subsection, "board" means the wireless 911 board.

(b) *Board rules.* If all of the members of the board are appointed and qualified on July 1, 2002, the board shall, using the procedure under section 227.24 of the statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

(c) *Department of commerce rules.* Notwithstanding section 146.70 (3m) (d) 3. of the statutes, as created by this act, if all of the members of the board are not appointed and qualified on July 1, 2002, the department of commerce shall, using the procedure under section 227.24 of the statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before

INSERT 21-20 (Cont'd):

1 permanent rules become effective, but not to exceed the period authorized under  
2 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
3 (2) (b), and (3) of the statutes, the department is not required to provide evidence that  
4 promulgating a rule under this paragraph as an emergency rule is necessary for the  
5 preservation of the public peace, health, safety, or welfare and is not required to  
6 provide a finding of emergency for a rule promulgated under this paragraph.

7 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section 15.155 (5)  
8 (b) of the statutes, as created by this act, the initial members of the wireless 911 board  
9 under section 15.155 (5) (a) 5. and 6. of the statutes, as created by this act, shall be  
10 appointed to serve the following terms:

11 (a) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
12 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
13 statutes, as created by this act, for terms expiring on May 1, 2004.

14 (b) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
15 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
16 statutes, as created by this act, for terms expiring on May 1, 2005.

17 (c) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
18 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
19 statutes, as created by this act, for terms expiring on May 1, 2006.

20 (d) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
21 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
22 statutes, as created by this act, for terms expiring on May 1, 2007.

23 (3) POSITION AUTHORIZATION. ~~The authorized FTE positions for the department~~  
24 ~~of commerce are increased by 1.0 PR position, to be funded from the appropriation~~

There is authorized for the wireless 911 board

INSERT 21-20:  
(cont'd):

1 under section 20.143 (3) (je) of the statutes, as created by this act, for the purpose of  
2 providing administrative services to the wireless 911 board.

3 (END) END of INSERT 21-20

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to renumber** 196.219 (2m) and 196.44 (1); **to renumber and amend**

2 100.207 (1), 196.202 (2) and 196.50 (4); **to amend** 196.196 (1) (g) 1. a., 196.219

3 (2m) (title), 196.219 (4) (a), 196.219 (4) (b), 196.22, 196.37 (1), 196.37 (2),

4 196.499 (1) (b), 196.50 (4) (title), 196.66 (1), 196.66 (3) (b) (intro.), 198.12 (6) and

5 198.22 (6); and **to create** 15.155 (5), 20.143 (3) (je), 20.143 (3) (jm), 20.143 (3)

6 (js), 20.143 (3) (kv), 20.155 (1) (Ls), 100.2065, 100.207 (1) (a), 100.207 (3g),

7 100.207 (3m), 100.207 (5g), 100.207 (5m), 100.207 (6) (bg), 100.207 (6) (br),

8 146.70 (3m), 196.02 (13), 196.025 (1m), 196.196 (5) (f) 1. g., 196.196 (5) (f) 4.,

9 196.196 (6), 196.202 (2) (b), 196.203 (6), 196.219 (1) (c), 196.219 (2m) (b),

10 196.219 (3) (p), 196.219 (3m), 196.219 (3s), 196.219 (6), 196.44 (1) (b), 196.499

11 (12) (am), 196.50 (4) (a), 196.50 (4) (c) and 227.01 (13) (cm) of the statutes;

12 **relating to:** creating a wireless 911 board; imposing a surcharge on wireless

13 telephone customers; making grants for 911 emergency telephone service;

14 retail and wholesale telecommunications service standards;

15 telecommunications access rates; enforcement authority of the public service

1 commission regarding telecommunications providers; construction and  
 2 ownership of telecommunications facilities by local units of government;  
 3 services provided by telecommunications providers; authority of the public  
 4 service commission regarding area codes and telephone numbers and  
 5 telecommunications-related decisions, orders, and rules; providing an  
 6 exemption from rule-making procedures; granting rule-making authority;  
 7 making appropriations; and providing penalties.

*Analysis by the <sup>3</sup>Legislative Reference Bureau <sup>2</sup>*

This bill creates a wireless 911 board that makes grants for providing 911 wireless emergency telephone service. The grants are funded by a surcharge paid by wireless customers. These provisions are discussed below. The bill also does all of the following with respect to the regulation of telecommunications providers, which are discussed below: 1) requires the public service commission (PSC) to establish retail and wholesale service standards; ~~2) allows the PSC to order access rates for certain telecommunications utilities;~~ 3) makes changes to the PSC's enforcement authority; 4) restricts ownership or construction of telecommunications facilities by local units of government; 5) makes changes to the telecommunications consumer protection law; and 6) makes various other changes.

**911 wireless emergency telephone service.**

The provisions of LRB-4975 and an analysis will be included in a subsequent version of this draft.

**Retail and wholesale service standards**

An analysis of these provisions will be included in a subsequent version of this draft.

**Access rates**

An analysis of these provisions will be included in a subsequent version of this draft.

**PSC enforcement authority**

Under current law, telecommunications utilities and providers are subject to certain requirements regarding the protection of consumers, including other telecommunications utilities and providers that use their services. There are several provisions for enforcing these requirements, including the following two. First, PSC, on its own motion or upon a complaint filed by a consumer, may take administrative action or commence civil actions against telecommunications utilities and providers to enforce these requirements. This bill provides that the PSC has jurisdiction in its own name or on behalf of consumers to take such actions. The bill also clarifies that

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the PSC's authority to take administrative action includes initiating a contested case.

Second, under current law, the PSC may bring an action in court for injunctive relief for compelling compliance with the requirements, for compelling refunds of any moneys collected in violation of the requirements, or for any other relief under the public utility statutes. This bill allows the PSC also to take administrative action, in addition to bringing an action in court, for compelling compliance with the requirements or for compelling refunds. In addition, the bill allows the PSC to take administrative action or bring an action in court for any other appropriate relief, instead of just any other relief under the public utility statutes. Also, the bill allows the PSC to directly impose forfeitures for violations of the requirements.

Furthermore, the bill makes other changes to the enforcement authority of the PSC, including the following:

1. Under current law, the PSC may investigate whether rates, tolls, charges, schedules, or joint rates are unjust, unreasonable, insufficient, unjustly discriminatory or preferential, or unlawful and may order that reasonable rates, tolls, charges, schedules, or joint rates be imposed, observed, or followed in the future. With respect to telecommunications providers, this bill allows the PSC also to order reasonable compensation for persons injured by reason of rates, tolls, charges, schedules, or joint rates of telecommunications providers that are investigated. INSERT 3A

2. Under current law, public utilities and certain other entities, such as telecommunications providers, that violate laws enforced by the PSC, PSC orders, and certain other requirements are subject to a forfeiture of between \$25 and \$5,000, for each day of violation, which is imposed by a court. Under this bill, the PSC may also impose such a forfeiture against a telecommunications provider by administrative action.

3. Under current law, the PSC is required to inquire into neglect or violation of laws by public utilities and telecommunications carriers, enforce such laws, and report all violations to the attorney general. This bill also allows the PSC to take administrative action and to institute and prosecute all necessary actions and proceedings for enforcing all laws relating to telecommunications providers or telecommunications carriers, and for the punishment of all violations.

~~An analysis of other changes to the PSC's enforcement authority will be included in a subsequent version of this draft.~~

***Local government construction and ownership of telecommunications facilities***

~~An analysis of these provisions will be included in a subsequent version of this draft.~~

***Restrictions on telecommunications providers in initiating service and restrictions on contracts***

This bill provides that a telecommunications provider may not provide a telecommunications service to a person unless the telecommunications provider reasonably believes that the person knowingly consented to receive the service. The telecommunications provider must also confirm, before providing the

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telecommunications service, that the person knowingly consented to receive the service. The bill also requires that the telecommunications provider inform the person that he or she may, before the service is activated, withdraw consent to receive the service and requires that the telecommunications provider inform the person of the manner by which that consent may be withdrawn.

This bill also prohibits a telecommunications provider from placing in a contract to provide telecommunications services a clause that provides that the laws of any state other than this state apply to the parties or terms of the contract or to any right or remedy under the contract.

***Restrictions on telecommunications providers in billing other services***

This bill provides that a telecommunications provider may not bill a customer for goods or services that are not telecommunications services provided by that telecommunications provider unless the telecommunications provider reasonably believes that the customer knowingly consents to receive the bill and the provider confirms that consent with the customer. If a customer consents, the bill requires that the telecommunications provider distinguish on the bill between the billing for telecommunication services and the billing for the other goods or services. Finally, if requested to do so by a customer who has consented to being billed for the other goods or services, the telecommunications provider shall provide a detailed itemized listing of the charges for those goods or services.

***Other changes***

INSERT 4A

5. The bill prohibits the provider of any broadcast audio or video service or any cable television telecommunications service from transmitting from this state any programming that is encrypted in such a manner that the programming may not be recorded by the recipient of the programming for the recipient's personal use. Current federal law specifies the extent to which a recipient may record programming for personal use.

An analysis of other changes will be included in a subsequent version of this draft.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 15.155 (5) of the statutes is created to read:

2 15.155 (5) WIRELESS 911 BOARD. (a) There is created a wireless 911 board  
3 attached to the department of commerce under s. 15.03 consisting of the following  
4 members:



- 1           1. One representative to the assembly, appointed by the speaker of the  
2 assembly.
- 3           2. One representative to the assembly, appointed by the assembly minority  
4 leader.
- 5           3. One senator, appointed by the president of the senate.
- 6           4. One senator, appointed by the senate minority leader.
- 7           5. Four persons who represent the interests of commercial mobile radio service  
8 providers, as defined in s. 196.01 (2g), appointed by the governor.
- 9           6. Four persons who represent the interests of public agencies, as defined in s.  
10 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate  
11 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the  
12 governor.

13           (b) The members appointed under par. (a) 5. and 6. shall serve 3-year terms  
14 and may not serve more than 2 consecutive terms.

15           **SECTION 2.** 20.143 (3) (je) of the statutes is created to read:

16           20.143 (3) (jc) *Wireless 911 board general program operations.* Two and  
17 one-half percent of all moneys received under s. 146.70 (3m) (d) 3. for general  
18 program operations of the wireless 911 board, including contracting for audits under  
19 s. 146.70 (3m) (b) 5.

20           **SECTION 3.** 20.143 (3) (jm) of the statutes is created to read:

21           20.143 (3) (jm) *Wireless provider grants.* Forty-eight and three-fourths  
22 percent of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board  
23 to make grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers  
24 to the appropriation under par. (kv) as provided under s. 146.70 (3m) (b) 3.

25           **SECTION 4.** 20.143 (3) (js) of the statutes is created to read:

1           20.143 (3) (js) *Public agency and wireless provider grants.* Forty-eight and  
2 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the  
3 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and  
4 to wireless providers under s. 146.70 (3m) (b) 3.

5           **SECTION 5.** 20.143 (3) (kv) of the statutes is created to read:

6           20.143 (3) (kv) *Public agency grants.* All moneys transferred from the  
7 appropriation account under par. (jm) for the wireless 911 board to make grants to  
8 public agencies under s. 146.70 (3m) (b) 1.

9           **SECTION 6.** 20.155 (1) (Ls) of the statutes is created to read:

10           20.155 (1) (Ls) *Telecommunications provider payments.* All moneys received  
11 from payments by telecommunications providers under s. 196.37 (2) for purposes  
12 determined by the commission under s. 196.37 (2).

13           **SECTION 7.** 100.2065 of the statutes is created to read:

14           **100.2065 Encryption of audio and video programming prohibited. (1)**

15           In this section:

16           (a) "Broadcast service" has the meaning given in s. 196.01 (1m).

17           (b) "Cable television service" has the meaning given s. 196.01 (1p).

18           (2) No person who provides a broadcast service or a cable television service may  
19 transmit from this state programming that is encrypted in such a manner that the  
20 programming may not be recorded by a recipient of the programming for the  
21 recipient's personal use, unless the personal use is prohibited under federal law.

22           **SECTION 8.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and  
23 amended to read:

24           100.207 (1) **DEFINITION.** (intro.) In this section, ~~"telecommunications:~~

25           (b) "Telecommunications service" has the meaning given in s. 196.01 (9m).

1           **SECTION 9.** 100.207 (1) (a) of the statutes is created to read:

2           100.207 (1) (a) “Telecommunications provider” has the meaning given in s.  
3 196.01 (8p).

4           **SECTION 10.** 100.207 (3g) of the statutes is created to read:

5           100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider  
6 may not bill a customer for any goods or services, other than telecommunications  
7 service provided by the telecommunications provider, unless all of the following  
8 apply:

9           1. The telecommunications provider reasonably believes that the person  
10 knowingly consented to the billing.

11           2. The telecommunications provider confirms with the person, before providing  
12 the telecommunications service, that the person knowingly consented to the billing.

13           (b) If a customer consents to being billed under par. (a), all of the following shall  
14 apply:

15           1. The telecommunications provider shall distinguish the billing for the other  
16 goods or services from the billing for the telecommunications service in a conspicuous  
17 manner approved by the department.

18           2. The telecommunications provider shall provide a detailed itemized listing  
19 of the charges for the goods or services if requested to do so by the customer.

20           **SECTION 11.** 100.207 (3m) of the statutes is created to read:

21           100.207 (3m) TELECOMMUNICATIONS SERVICE CONFIRMATION. A  
22 telecommunications provider may not provide a telecommunications service to a  
23 person unless all of the following apply:

24           (a) The telecommunications provider reasonably believes that the person  
25 knowingly consented to receive the service.

1           (b) The telecommunications provider confirms with the person, before  
2 providing the telecommunications service, that the person knowingly consented to  
3 receive the service.

4           (c) At the time that the telecommunications provider provides confirmation  
5 under par. (b), the telecommunications provider informs the person that he or she  
6 may, before the service is activated, withdraw his or her consent to receive the service  
7 and informs the person of the manner by which that consent may be withdrawn.

8           **SECTION 12.** 100.207 (5g) of the statutes is created to read:

9           100.207 (5g) **RESTRICTIONS ON CONTRACTS.** No telecommunications provider  
10 may place in a contract entered into with a customer located in this state a clause that  
11 provides that a law of a state other than this state applies to the parties or terms of  
12 the contract or the rights and remedies under the contract.

13           **SECTION 13.** 100.207 (5m) of the statutes is created to read:

14           100.207 (5m) **RECORD REQUIREMENTS.** Any person who provides  
15 telecommunications service to any person in this state shall maintain each billing  
16 and collection record that is made in providing the telecommunications service for  
17 a period of 10 years beginning on the date that the record is made.

18           **SECTION 14.** 100.207 (6) (bg) of the statutes is created to read:

19           100.207 (6) (bg) 1. Any person who has been served with a department  
20 complaint, notice, order, or other process as authorized in s. 93.18 (5) shall be subject  
21 to the department's authority and jurisdiction, as limited by subd. 2.

22           2. The department's jurisdiction may not exceed the jurisdiction granted to  
23 courts under s. 815.05.

24           **SECTION 15.** 100.207 (6) (br) of the statutes is created to read:

1           100.207 (6) (br) Any person who fails to comply with a subpoena, order, or civil  
2           investigative demand that is served upon the person for the purposes of  
3           administering or enforcing this section or for the purpose of conducting an  
4           investigation under this section may be coerced to comply as provided in s. 885.12.

5           **SECTION 16.** 146.70 (3m) of the statutes is created to read:

6           146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

7           1. “Board” means the wireless 911 board.  
8           2. “Federal wireless orders” means the orders of the federal communications  
9           commission regarding 911 emergency services for wireless telephone users in FCC  
10          docket no. 94–102.

11          3. “Wireless provider” means a commercial mobile radio service provider, as  
12          defined in s. 196.01 (2g), that is subject to the federal wireless orders.

13          4. “Wireless public safety answering point” means a facility to which a call on  
14          a wireless provider’s system is initially routed for response, and on which a public  
15          agency directly dispatches the appropriate emergency service provider, relays a  
16          message to the appropriate emergency service provider, or transfers the call to the  
17          appropriate emergency services provider.

18          (b) *Grants.* 1. From the appropriations under s. 20.143 (3) (js) and (kv), the  
19          board shall make grants to public agencies that operate public safety answering  
20          points for eligible expenses under par. (c). A public agency is eligible for a grant  
21          under this subdivision only if the board determines that the public agency is  
22          providing, or has begun to implement, 911 emergency services for wireless telephone  
23          users and has complied with the federal wireless orders. The total amount in grants  
24          that a public agency may receive under this subdivision may not exceed 50% of the  
25          public agency’s total eligible expenses under par. (c).

1           2. From the appropriation under s. 20.143 (3) (jm), the board shall make grants  
2 to wireless providers for actual expenses incurred by wireless providers to upgrade,  
3 purchase, lease, program, install, test, operate, or maintain all data, hardware, and  
4 software necessary to comply with the federal wireless orders.

5           3. If the board determines that there are insufficient funds in the appropriation  
6 account under s. 20.143 (3) (jm) to make a grant under subd. 2., and the board has  
7 not paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3  
8 months, the board may make the grant to the wireless provider from the  
9 appropriation account under s. 20.143 (3) (js). If the board makes a grant under this  
10 subdivision, the board shall, as soon as practicable, transfer moneys from the  
11 appropriation account under s. 20.143 (3) (jm) to the appropriation account under s.  
12 20.143 (3) (kv) in an amount equal to the amount of the grant.

13           4. If the board determines that there are insufficient funds in an appropriation  
14 to make a grant under this paragraph, the board may make the grant in  
15 installments.

16           5. The board shall contract for independent audits of applications for grants  
17 under this paragraph. An applicant shall provide an auditor with any relevant  
18 confidential business information.

19           (c) *Public agency eligible expenses.* 1. A public agency may receive a grant  
20 under par. (b) 1. for actual expenses that the public agency directly and primarily  
21 incurred for leasing, purchasing, operating, or maintaining a wireless public safety  
22 answering point, including expenses for all of the following:

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

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

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

4           2. Except for expenses under subd. 1., a public agency may not receive a grant  
5 under par. (b) 1. for any of the following:

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

9           b. Vehicles and equipment in vehicles.

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

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

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

15          (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of  
16 50 cents per month for each telephone number that has a billable address in this state  
17 and shall identify the surcharge on a customer's bill on a separate line that is  
18 identified as "Wisconsin Wireless 911 Surcharge." The board may promulgate rules  
19 that increase or decrease the surcharge, except that the board may not increase the  
20 surcharge more than once per year, any increase must be uniform statewide and may  
21 not exceed 10 cents, and the surcharge may not exceed \$1.

22          2. A wireless provider may not prorate the surcharge and shall collect the entire  
23 amount of the surcharge for a month of partial service.

24          3. The board shall promulgate rules establishing requirements for wireless  
25 providers to collect the surcharge from their customers beginning with the first bills

1 issued after July 1, 2002. Except as provided in subd. 4., a wireless provider shall  
2 pay the surcharges to the board no more than 60 days after the end of the calendar  
3 month in which the surcharges are collected. The board shall bring an action to  
4 collect a surcharge that is not paid by a customer and the customer's wireless  
5 provider is not liable for the unpaid surcharge.

6 4. Wireless providers may retain 2% of the surcharges collected in fiscal year  
7 2002–03 for reimbursing costs related to collecting the surcharge, including  
8 reprogramming billing systems.

9 (e) *Confidentiality of information.* The board may withhold from public  
10 inspection any information that would aid a competitor of a wireless provider in  
11 competition with the wireless provider. The board shall establish procedures for  
12 internal management that prohibit members of the board from having access to  
13 confidential business information submitted by wireless providers.

14 (f) *Public information.* The board shall promulgate rules establishing  
15 requirements and procedures for informing the public about the purpose and uses  
16 of the surcharge required under this subsection. The rules shall require the board  
17 to maintain a toll-free telephone number to provide such information to the public  
18 and require wireless providers to identify the toll-free number on bills and direct  
19 customers to contact the board regarding questions about the surcharge.

20 (g) *Other charges prohibited.* No city, village, town, county, or state agency, as  
21 defined in s. 16.375 (1), except the board, may require a wireless provider to collect  
22 or pay a surcharge or fee related to wireless emergency telephone service.

23 (h) *Liability exemption.* A wireless provider shall not be liable to any person  
24 who uses a wireless emergency telephone number system for which a grant is made  
25 under par. (b).



1           (i) *Report to governor and legislature.* Annually, the board shall submit a report  
2 to the governor, and to the chief clerk of each house of the legislature for distribution  
3 to the legislature under s. 13.172 (2), that describes the costs incurred by wireless  
4 providers and public agencies in providing emergency wireless telephone service and  
5 the grants made by the board.

6           (j) *Board powers.* The board shall possess all powers necessary or convenient  
7 for administering the requirements of this subsection.

8           (k) *Sunset.* This subsection does not apply after the first day of the 60th month  
9 beginning after the effective date of this paragraph .... [revisor inserts date].

10           **SECTION 17.** 196.02 (13) of the statutes is created to read:

11           **196.02 (13) TELEPHONE NUMBERS AND AREA CODES.** To the extent authorized  
12 under federal law, the commission has jurisdiction to supervise and regulate  
13 telephone numbers and area codes used by any telecommunications provider in this  
14 state and to do all things necessary and convenient to such jurisdiction. The  
15 commission may withhold from public inspection any information obtained from a  
16 telecommunications provider under this subsection that would aid a competitor of  
17 the telecommunications provider.

18           **SECTION 18.** 196.025 (1m) of the statutes is created to read:

19           **196.025 (1m)** In making all telecommunications-related decisions and orders,  
20 including rate setting and rule-making orders, the commission shall promote the  
21 availability of high quality telecommunications services at reasonable rates,  
22 facilitate the development of competitive markets for local telecommunications  
23 services, protect the public against monopolies, and ensure the effective regulation  
24 of telecommunications utilities that have control or market power over essential  
25 telecommunications facilities.

1           **SECTION 19.** 196.196 (1) (g) 1. a. of the statutes is amended to read:

2           196.196 (1) (g) 1. a. The goal to be achieved, which may include promoting  
3 competition, service quality, infrastructure deployment, economic development,  
4 consumer choice, productivity, efficiency, quality of life, societal goals, or universal  
5 service.

6           **SECTION 20.** 196.196 (5) (f) 1. g. of the statutes is created to read:

7           196.196 (5) (f) 1. g. Competition for telecommunications services throughout  
8 the state.

9           **SECTION 21.** 196.196 (5) (f) 4. of the statutes is created to read:

10          196.196 (5) (f) 4. The commission may require a telecommunications provider  
11 or provider of cable television service to submit to the commission any information  
12 that the commission determines is necessary to prepare the report under subd. 1.  
13 The commission may withhold from public inspection any information obtained  
14 under this subdivision that would aid a competitor of a telecommunications provider  
15 or provider of cable television service.

16          **SECTION 22.** 196.196 (6) of the statutes is created to read:

17          196.196 (6) PENALTY. A price-regulated telecommunications utility that  
18 provides inadequate service or makes insufficient investment may be required to  
19 forfeit no more than the dollar value of the decrease in rates that would result from  
20 applying a penalty mechanism of 5 percentage points and an incentive mechanism  
21 of zero percentage points under sub. (1) (c) 1. The commission may impose a  
22 forfeiture under this subsection by administrative action.

23          **SECTION 23.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,  
24 is renumbered 196.202 (2) (intro.) and amended to read:

1           196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service  
2 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and  
3 except ~~that a~~ as follows:

4           (a) A commercial mobile radio service provider is subject to s. 196.218 (3) if the  
5 commission promulgates rules that designate commercial mobile radio service  
6 providers as eligible to receive universal service funding under both the federal and  
7 state universal service fund programs. If the commission promulgates such rules,  
8 a commercial mobile radio service provider shall respond, subject to the protection  
9 of the commercial mobile radio service provider's competitive information, to all  
10 reasonable requests for information about its operations in this state from the  
11 commission necessary to administer the universal service fund.

12           **SECTION 24.** 196.202 (2) (b) of the statutes is created to read:

13           196.202 (2) (b) A commercial mobile radio service provider is subject to ss.  
14 196.02 (13) and 196.196 (5) (f) 4.

15           **SECTION 25.** 196.203 (6) of the statutes is created to read:

16           196.203 (6) An alternative telecommunications utility is subject to ss. 196.02  
17 (13) and 196.196 (5) (f) 4.

18           **SECTION 26.** 196.219 (1) (c) of the statutes is created to read:

19           196.219 (1) (c) "Wholesale services" include preordering, ordering and  
20 provisioning, maintenance and repair, network performance, unbundled elements,  
21 operator services and directory assistance, system performance, service center  
22 availability, and billing. The commission may, by order, modify the definition under  
23 this paragraph.

24           **SECTION 27.** 196.219 (2m) (title) of the statutes is amended to read:

25           196.219 (2m) (title) **ACCESS SERVICES AND RATES.**

1           **SECTION 28.** 196.219 (2m) of the statutes is renumbered 196.219 (2m) (a).

2           **SECTION 29.** 196.219 (2m) (b) of the statutes is created to read:

3           196.219 (2m) (b) 1. In this paragraph, “access order” means the March 23, 1993,  
4 order of the commission on intrastate access costs and charges in docket number  
5 05-TR-103.

6           2. Except as provided in subd. 3., the commission shall investigate, determine,  
7 and order rates, tolls, and charges of a telecommunications utility if the utility’s  
8 intrastate originating and terminating access rates exceed any of the following:

9           a. After July 1, 2004, 150% of the benchmark rate levels established in the  
10 access order.

11           b. After July 1, 2006, 125% of the benchmark rate levels established in the  
12 access order.

13           c. After July 1, 2008, 100% of the benchmark rate levels established in the  
14 access order.

15           3. Subdivision 2. does not apply to any of the following:

16           a. A telecommunications utility regulated under s. 196.196.

17           b. A telecommunications utility whose intrastate access rates are established  
18 under s. 196.195 (12).

19           c. A telecommunications utility whose intrastate access rates have been  
20 reviewed and approved by the commission after September 1, 1994, and before the  
21 effective date of this subd. 3. c. .... [revisor inserts date].

22           **SECTION 30.** 196.219 (3) (p) of the statutes is created to read:

23           196.219 (3) (p) Fail to provide wholesale services to another  
24 telecommunications provider on the same terms and conditions that the  
25 telecommunications utility or telecommunications provider receives from any other

1 telecommunications provider, except that, if a telecommunications utility or  
2 telecommunications provider receives wholesale services on different terms and  
3 conditions from different telecommunications providers, the telecommunications  
4 utility or telecommunications provider shall provide wholesale services on the terms  
5 and conditions that it receives from another telecommunications provider that result  
6 in the highest quality of wholesale service.

7 **SECTION 31.** 196.219 (3m) of the statutes is created to read:

8 **196.219 (3m) RETAIL AND WHOLESAL SERVICE STANDARDS.** (a) *Definitions.* In this  
9 subsection:

10 1. "Repeat trouble report" means a trouble report by a retail or wholesale  
11 customer who has previously made a trouble report regarding the same retail or  
12 wholesale service.

13 2. "Retail service" means basic residential and business telecommunications  
14 service.

15 3. "Trouble report" means a report to a telecommunications provider by a retail  
16 or wholesale customer about a problem regarding a retail or wholesale service  
17 provided by the telecommunications provider.

18 (b) *Retail service standards.* 1. No later than 90 days after the effective date  
19 of this subdivision .... [revisor inserts date], the commission shall, by order, establish  
20 standards that require a telecommunications provider specified in subd. 2. to do all  
21 of the following:

22 a. Initiate retail service in response to orders in a timely manner.

23 b. Repair retail service outages in a timely manner.

24 c. Minimize the frequency of repeat trouble reports.

25 d. Minimize missed retail service repair appointments.

1 e. Minimize retail service customer waiting time during calls to the  
2 telecommunications provider's service center.

3 f. Comply with any other requirement specified by the commission relating to  
4 retail service quality.

5 2. The standards under subd. 1. shall apply to a telecommunications utility  
6 with more than 500,000 access lines in this state. The commission may, by order,  
7 specify other telecommunications providers who provide local exchange service that  
8 must comply with the standards if the commission finds that such a  
9 telecommunications provider has engaged in a demonstrated pattern of poor retail  
10 service or intentional misconduct related to retail service.

11 3. The commission may, by order, require a telecommunications provider that  
12 must comply with the standards under subd. 1. to issue credits specified in the order  
13 to retail service customers who are affected by the telecommunications provider's  
14 failure to comply with the standards.

15 (c) *Wholesale service standards.* 1. No later than 90 days after the effective date  
16 of this subdivision .... [revisor inserts date], the commission shall, by order, establish  
17 standards that require a telecommunications utility specified in the order to do all  
18 of the following:

19 a. Initiate wholesale service in response to orders in a timely manner.

20 b. Repair wholesale service outages in a timely manner.

21 c. Minimize the frequency of repeat trouble reports.

22 d. Comply with any other requirement specified by the commission relating to  
23 wholesale service quality.

1           2. After issuing the order under subd. 1., the commission may issue an order  
2 specifying additional telecommunications utilities that must comply with the  
3 standards under subd. 1.

4           (d) *Rule making.* The commission may promulgate rules that implement the  
5 requirements of the orders under pars. (b) and (c).

6           **SECTION 32.** 196.219 (3s) of the statutes is created to read:

7           196.219 (3s) REMEDIAL ORDERS. The commission may issue an order requiring  
8 that, if a telecommunications provider determines that it has failed to comply with  
9 a requirement of this section that is specified in the order, the telecommunications  
10 provider must provide its consumers who are affected by the failure with a billing  
11 credit or other remedy specified in the order.

12           **SECTION 33.** 196.219 (4) (a) of the statutes is amended to read:

13           196.219 (4) (a) ~~On the commission's own motion or upon complaint filed by the~~  
14 ~~consumer, the~~ The commission, in its own name or on behalf of consumers, shall have  
15 jurisdiction to take administrative action, including initiating a contested case, or to  
16 commence civil actions against telecommunications utilities or providers to enforce  
17 this section.

18           **SECTION 34.** 196.219 (4) (b) of the statutes is amended to read:

19           196.219 (4) (b) The commission, in its own name or on behalf of consumers,  
20 ~~may, at its discretion, take administrative action, including initiating a contested~~  
21 ~~case, or~~ institute in any court of competent jurisdiction a proceeding against a  
22 telecommunications utility or provider for injunctive relief, to compel compliance  
23 with this section, to compel the accounting and refund of any moneys collected in  
24 violation of this section, or for any other appropriate relief ~~permitted under this~~

1 chapter. The commission may directly impose forfeitures for violations of this  
2 section.

3 **SECTION 35.** 196.219 (6) of the statutes is created to read:

4 196.219 (6) PENALTIES. (a) Except as provided in par. (b), a telecommunications  
5 provider that violates this section may be required to forfeit not more than \$30,000,  
6 or 0.00825% of the telecommunications provider's annual gross operating revenues  
7 from intrastate telecommunications service, whichever is greater, for each offense.  
8 Each day of continued violation constitutes a separate offense.

9 (b) A small telecommunications utility that violates this section may be  
10 required to forfeit not more than \$5,000 for each offense. Each day of continued  
11 violation constitutes a separate offense.

12 (c) A court imposing a forfeiture on a telecommunications provider under this  
13 subsection shall consider all of the following in determining the amount of the  
14 forfeiture:

15 1. The appropriateness of the forfeiture to the volume of business of the  
16 telecommunications provider.

17 2. The gravity of the violation.

18 3. Any good faith attempt to achieve compliance after the telecommunications  
19 provider receives notice of the violation.

20 **SECTION 36.** 196.22 of the statutes is amended to read:

21 **196.22 Discrimination forbidden.** No public utility may charge, demand,  
22 collect, or receive more or less compensation for any service performed by it within  
23 the state, or for any service in connection therewith, than is specified in the schedules  
24 for the service filed under s. 196.19, including schedules of joint rates, as may at the  
25 time be in force, or demand, collect, or receive any rate, toll, or charge not specified



1 in the schedule. Payments made for violations of this chapter by telecommunications  
2 providers are not contrary to this section.

3 SECTION 37. 196.37 (1) of the statutes is amended to read:

4 196.37 (1) If, after an investigation under this chapter or ch. 197, the  
5 commission finds rates, tolls, charges, schedules, or joint rates to be unjust,  
6 unreasonable, insufficient, or unjustly discriminatory or preferential, or otherwise  
7 unreasonable or unlawful, the commission shall determine and order reasonable  
8 rates, tolls, charges, schedules, or joint rates to be imposed, observed, and followed  
9 in the future and, with respect to rates, tolls, charges, schedules, or joint rates of  
10 telecommunications providers, may determine and order reasonable compensation  
11 for persons injured by reason of such rates, tolls, charges, schedules, or joint rates.

12 SECTION 38. 196.37 (2) of the statutes is amended to read:

13 196.37 (2) If the commission finds that any measurement, regulation, practice,  
14 act, or service is unjust, unreasonable, insufficient, preferential, unjustly  
15 discriminatory, or otherwise unreasonable or unlawful, or that any service is  
16 inadequate, or that any service which reasonably can be demanded cannot be  
17 obtained, the commission shall determine and make any just and reasonable order  
18 relating to a measurement, regulation, practice, act, or service to be furnished,  
19 imposed, observed, and followed in the future. An order under this subsection  
20 against a telecommunications provider may require the telecommunications  
21 provider to make payments in amounts specified in the order to persons affected by  
22 the measurement, regulation, practice, act, or service or to the commission. The  
23 commission may use any payment received under this subsection for any purpose  
24 determined by the commission relating to maintaining or improving

1 telecommunications service quality, including compensating persons who are  
2 affected by the measurement, regulation, practice, act, or service.

3 **SECTION 39.** 196.44 (1) of the statutes is renumbered 196.44 (1) (a).

4 **SECTION 40.** 196.44 (1) (b) of the statutes is created to read:

5 196.44 (1) (b) The commission may take administrative action and institute  
6 and prosecute all necessary actions or proceedings for the enforcement of all laws  
7 relating to telecommunications providers and for the punishment of all violations.

8 **SECTION 41.** 196.499 (1) (b) of the statutes is amended to read:

9 196.499 (1) (b) A telecommunications carrier shall be treated under ss. 196.02  
10 (13), 196.196 (5) (f) 4., 196.209, 196.218 (8) and 196.219 as a telecommunications  
11 provider.

12 **SECTION 42.** 196.499 (12) (am) of the statutes is created to read:

13 196.499 (12) (am) The commission may take administrative action and  
14 institute and prosecute all necessary actions or proceedings for the enforcement of  
15 all laws relating to telecommunications carriers and for the punishment of all  
16 violations.

17 **SECTION 43.** 196.50 (4) (title) of the statutes is amended to read:

18 196.50 (4) (title) ~~MUNICIPALITY~~ LOCAL GOVERNMENTAL UNITS AND MUNICIPALITIES  
19 RESTRAINED.

20 **SECTION 44.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and  
21 amended to read:

22 196.50 (4) (b) No municipality may construct any public utility if there is in  
23 operation under an indeterminate permit in the municipality a public utility  
24 engaged in similar service ~~other than a telecommunications service,~~ unless it secures  
25 from the commission a declaration, after a public hearing of all parties interested,

1 that public convenience and necessity require the municipal public utility and unless  
2 the requirements of par. (c) are satisfied.

3 **SECTION 45.** 196.50 (4) (a) of the statutes is created to read:

4 196.50 (4) (a) In this subsection:

5 1. "Commencement of construction" has the meaning given in s. 196.491 (1) (b).

6 2. "Local governmental unit" means a town, village, city, county, or special  
7 purpose district, a subunit of a town, village, city, county, or special purpose district,  
8 or any combination of a town, village, city, county, special purpose district, or such  
9 a subunit.

10 3. "Telecommunications facility" means any plant or equipment used to provide  
11 a telecommunications service to the public by wire, fiber optics, radio signal, or other  
12 means.

13 **SECTION 46.** 196.50 (4) (c) of the statutes is created to read:

14 196.50 (4) (c) 1. Except as provided in subd. 2., a local governmental unit may  
15 not construct or own a telecommunications facility, unless all of the following are  
16 satisfied:

17 a. The local governmental unit leases the telecommunications facility to a  
18 telecommunications provider that is not owned or controlled by any local  
19 governmental unit.

20 b. Before beginning construction or taking ownership of the  
21 telecommunications facility, whichever occurs first, the local governmental unit  
22 submits to the commission a financing plan and budget for constructing or owning  
23 the telecommunications facility. The information submitted under this subd. 1. b.  
24 shall be open to public inspection.

1 c. The lease specified in subd. 1. a. is approved at a referendum pursuant to this  
2 subdivision. The governing body of each town, village, city, county, or special purpose  
3 district that comprises the local governmental unit or that has a subunit that  
4 comprises the local governmental unit may adopt a resolution calling for a  
5 referendum under this subdivision on whether that local governmental entity or  
6 subunit should construct or purchase a telecommunications facility and enter into  
7 a lease specified in subd. 1. a. The referendum shall be held at the next succeeding  
8 spring election or general election to be held not earlier than 42 days after the  
9 adoption of the resolution. The referendum question shall be substantially as  
10 follows: "Shall the .... [name of town, village, city, county, special purpose district, or  
11 subunit] .... [construct or purchase] a telecommunications facility for the purpose of  
12 leasing that facility to a private telecommunications provider?" If a majority of the  
13 electors of each town, village, city, county, or special purpose district that comprises  
14 the local governmental unit or that has a subunit that comprises the local  
15 governmental unit who vote in the referendum vote "Yes," the local governmental  
16 unit may enter into the lease specified in subd. 1. a., provided the local governmental  
17 unit complies with subd. 1. b.

18 2. Subdivision 1. does not apply to a telecommunications facility that is owned  
19 or on which construction has commenced before the effective date of this subdivision  
20 .... [revisor inserts date], until 5 years after the effective date of this subdivision ....  
21 [revisor inserts date].

22 **SECTION 47.** 196.66 (1) of the statutes is amended to read:

23 196.66 (1) **GENERAL FORFEITURE; FAILURE TO OBEY.** If any public utility or  
24 telecommunications provider violates this chapter or ch. 197 or fails or refuses to  
25 perform any duty enjoined upon it for which a penalty has not been provided, or fails,

1 neglects, or refuses to obey any lawful requirement or order of the commission or the  
2 governing body of a municipality or a sanitary commission or any judgment or decree  
3 of any court upon its application, for every violation, failure, or refusal the public  
4 utility shall forfeit not less than \$25 nor more than \$5,000. The commission may  
5 impose a forfeiture against a telecommunications provider under this section by  
6 administrative action.

7 **SECTION 48.** 196.66 (3) (b) (intro.) of the statutes is amended to read:

8 196.66 (3) (b) (intro.) ~~A-~~ The commission or a court imposing a forfeiture on a  
9 public utility or telecommunications provider or an agent, director, officer, or  
10 employee of a public utility or telecommunications provider under this chapter shall  
11 consider all of the following in determining the amount of the forfeiture:

12 **SECTION 49.** 198.12 (6) of the statutes is amended to read:

13 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF  
14 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire  
15 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to  
16 construct any utility or portion thereof to operate, in whole or in part, in the district,  
17 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where  
18 applicable, to construct any addition to or extension of any such utility, and to own,  
19 acquire and construct any water power and hydroelectric power plant, within or  
20 without the district, to be operated in connection with any such utility, and to  
21 operate, maintain and conduct such utility and water power and hydroelectric power  
22 plant and system both within and without the district, and to furnish, deliver and  
23 sell to the public and to any municipality and to the state and any state institution  
24 heat, light and power service and any other service, commodity or facility which may  
25 be produced or furnished thereby, and to charge and collect rates, tolls and charges

1 for the same. For said purposes the district is granted and shall have and exercise  
2 the right freely to use and occupy any public highway, street, way or place reasonably  
3 necessary to be used or occupied for the maintenance and operation of such utility  
4 or any part thereof, subject, however, to such local police regulations as may be  
5 imposed by any ordinance adopted by the governing body of the municipality in  
6 which such highway, street, way or place is located.

7 **SECTION 50.** 198.22 (6) of the statutes is amended to read:

8 198.22 (6) ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF  
9 STREETS. The district shall have power and authority to own, acquire, and, subject  
10 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any  
11 water utility or portion thereof, to operate, in whole or in part, in the district and to  
12 construct any addition or extension to any such utility. For such purpose the district  
13 is granted and shall have and exercise the right freely to use and occupy any public  
14 highway, street, way or place reasonably necessary to be used or occupied for the  
15 construction, operation or maintenance of such utility or any part thereof, subject,  
16 however, to the obligation of the district to replace said grounds in the same condition  
17 as they previously were in.

18 **SECTION 51.** 227.01 (13) (cm) of the statutes is created to read:

19 227.01 (13) (cm) Is an order under s. 196.219 (1) (c), (3m) (b) or (c), or (3s).

20 **SECTION 52. Nonstatutory provisions.**

21 (1) WIRELESS 911 SURCHARGE RULES.

22 (a) *Definition.* In this subsection, “board” means the wireless 911 board.

23 (b) *Board rules.* If all of the members of the board are appointed and qualified  
24 on July 1, 2002, the board shall, using the procedure under section 227.24 of the  
25 statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as

1 created by this act, for the period before permanent rules become effective, but not  
2 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.  
3 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not  
4 required to provide evidence that promulgating a rule under this paragraph as an  
5 emergency rule is necessary for the preservation of the public peace, health, safety,  
6 or welfare and is not required to provide a finding of emergency for a rule  
7 promulgated under this paragraph.

8 (c) *Department of commerce rules.* Notwithstanding section 146.70 (3m) (d) 3.  
9 of the statutes, as created by this act, if all of the members of the board are not  
10 appointed and qualified on July 1, 2002, the department of commerce shall, using the  
11 procedure under section 227.24 of the statutes, promulgate the rules under section  
12 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before  
13 permanent rules become effective, but not to exceed the period authorized under  
14 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
15 (2) (b), and (3) of the statutes, the department is not required to provide evidence that  
16 promulgating a rule under this paragraph as an emergency rule is necessary for the  
17 preservation of the public peace, health, safety, or welfare and is not required to  
18 provide a finding of emergency for a rule promulgated under this paragraph.

19 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section 15.155 (5)  
20 (b) of the statutes, as created by this act, the initial members of the wireless 911 board  
21 under section 15.155 (5) (a) 5. and 6. of the statutes, as created by this act, shall be  
22 appointed to serve the following terms:

23 (a) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
24 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
25 statutes, as created by this act, for terms expiring on May 1, 2004.

1 (b) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
2 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
3 statutes, as created by this act, for terms expiring on May 1, 2005.

4 (c) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
5 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
6 statutes, as created by this act, for terms expiring on May 1, 2006.

7 (d) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
8 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
9 statutes, as created by this act, for terms expiring on May 1, 2007.

10 (3) POSITION AUTHORIZATION. There is authorized for the wireless 911 board 1.0  
11 FTE PR position, to be funded from the appropriation under section 20.143 (3) (je)  
12 of the statutes, as created by this act, for the purpose of providing administrative  
13 services to the wireless 911 board.

14 **SECTION 53. Initial applicability.**

15 (1) TELECOMMUNICATIONS SERVICE. The treatment of section 100.207 (3g), (3m),  
16 and (5g) of the statutes first applies to contracts entered into, extended, modified, or  
17 renewed on the effective date of this subsection.

18 (2) ENFORCEMENT AUTHORITY; PUBLIC SERVICE COMMISSION.

19 (a) The treatment of sections 196.219 (4) (b) and (6), 196.499 (12) (am), and  
20 196.66 (1) and (3) (b) (intro.) of the statutes first applies to violations occurring on  
21 the effective date of this paragraph.

22 (b) The treatment of section 196.37 (2) of the statutes first applies to orders  
23 made on the effective date of this paragraph



1 (c) The treatment of section 196.196 (6) of the statutes first applies to  
2 inadequate service provided or insufficient investment made on the effective date of  
3 this paragraph.

4

(END)

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LRB-4955/lins  
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The bill creates a wireless 911 board (board), consisting of the following 12 members: 1) one representative appointed by the speaker of the assembly; 2) one representative appointed by the assembly minority leader; 3) one senator appointed by the president of the senate; 4) one senator appointed by the senate minority leader; 5) four members who represent wireless telecommunications providers and who are appointed by the governor; and 6) four members who represent public agencies that operate emergency telephone service systems and who are appointed by the governor.

The bill requires wireless telecommunications providers to impose a ~~50~~ surcharge on customer bills and pay the surcharge to the board, except that in fiscal year 2002-03, a wireless provider may retain 2% of the surcharge for reimbursing the cost of collecting the surcharge. The surcharge must be imposed on the first bills issued after July 1, 2002. The board may promulgate rules to increase or decrease the surcharge, but the board may only increase the surcharge once per year. In addition, any increase must be uniform statewide and may not exceed 10 cents, and the surcharge may never exceed \$1.

The board must use the surcharge to make grants to wireless telecommunications providers and public agencies that operate emergency telephone systems. A wireless telecommunications provider is eligible for a grant if it is subject to orders of the Federal Communications Commission (FCC) regarding wireless 911 emergency telephone service. The grants must be used for specified expenses incurred by wireless telecommunications providers to comply with the FCC's orders. A public agency is eligible for a grant only if the board determines that the agency is providing, or has begun to implement, 911 emergency services for wireless users and the agency has complied with the FCC's orders. A grant to a public agency must be used for specified expenses related to the operation of an emergency telephone system. In addition, the total amount in grants that a public agency may receive may not exceed 50% of the agency's eligible expenses.

The board may use no more than 2.5% of the surcharges collected in a fiscal year for the board's general program operations. Half of the remaining amount must be placed in an account for grants to wireless telecommunications providers, and the other half is placed in an account for grants to public agencies. However, if there is insufficient money for a grant to a wireless telecommunications provider, the board may, under certain circumstances, make a grant to a wireless telecommunications provider from the account for public agencies. If the board makes such a grant, the board must, as soon as practicable, transfer an amount equal to the grant to the public agency account from the wireless telecommunications provider account.

The bill creates other requirements for the grant program, including the following:

1. The bill allows the board to make grants in installments, if there are insufficient funds in a surcharge account.



*the board*

2. The bill allows the board to withhold from public inspection any information it receives that would aid the competitor of a wireless provider.

3. The bill requires the board to contract for independent audits of grant applications. The board must also establish procedures that prohibit members of the board from having access to confidential business information submitted by wireless telecommunications providers.

4. The bill prohibits cities, villages, towns, counties, and other state agencies from requiring wireless telecommunications providers to collect or pay a surcharge or fee related to wireless emergency telephone service.

5. The bill requires the board to submit an annual report to the legislature regarding the grant program.

6. The bill's requirements regarding the surcharge and grant program do not apply after the first day of the 60th month beginning after the bill's effective date.

1

**INSERT 2B:**

The bill requires the PSC, no later than 90 days after the bill's effective date, to issue orders that establish retail and wholesale service standards. The retail standards apply to initiating service and repairing outages in a timely manner, minimizing repeat reports by customers regarding trouble with service, minimizing waiting time during customer calls to service centers, and complying with any other standard specified by the PSC. The retail standards apply to a telecommunications utility with more than 500,000 access lines in the state. The PSC may also order other telecommunications providers to comply with the standards, if such a provider engages in a demonstrated pattern of poor retail service or intentional misconduct related to retail service. The PSC may also order a telecommunications provider who fails to comply with the standards to issue credits to affected customers.

*the PSC specifies*

The order on wholesale service standards applies to initiating service and repairing outages in a timely manner, minimizing repeat reports by customers regarding trouble with service, and ~~and~~ complying with any other standard specified by the PSC. The wholesale standards apply to telecommunications utilities that the PSC specifies in the order or in a subsequent order. The bill also defines "wholesale services" to include preordering, ordering and provisioning, maintenance and repair, network performance, unbundled elements, operator services and directory assistance, system performance, service center availability, and billing. In addition, the bill allows the PSC, by order, to modify the definition.

→

The bill also requires telecommunications utilities and providers to provide wholesale services on the same terms and conditions that the utility or provider receives from any other provider. However, if the utility or provider receives such services on different terms and conditions from different providers, the utility or provider must provide such services on the terms and conditions that result in the highest quality of service.

**INSERT 3A:**

The bill also allows the PSC to order a telecommunications provider to make payments to the PSC or to a person affected by the rates, tolls, charges, schedules, or joint rates. The PSC may use a payment that it receives for any purpose

*2*  
*not*

↘

determined by the PSC relating to maintaining or improving telecommunications quality.

1

**INSERT 3B:**

4. The bill allows a court or the PSC to impose a forfeiture on a price-regulated telecommunications utility that provides inadequate services or makes insufficient investments. The amount of the forfeiture may not exceed the dollar value of the decrease in the utility's rates that would result from applying a penalty mechanism of ~~5~~ percentage points and an incentive mechanism of zero percentage points under a price cap formula under current law.

five

5. The bill allows the PSC to order a telecommunications provider that fails to comply with requirements under the bill and current law regarding the protection of consumers to provide consumers who are affected by the failure with billing credits or other remedies specified in the order. Also, the bill allows a court to impose a forfeiture of no more than \$5,000 against a small telecommunications utility that violates the consumer protection requirements. A "small telecommunications utility" is a utility with less than 50,000 access lines. Other telecommunications providers that violate the requirements may be required to forfeit not more than \$30,000, or 0.00825% of the provider's annual gross operating revenues, whichever is greater. For both small telecommunications utilities and other telecommunications providers, each day of violation constitutes a separate offense.

2

**INSERT 3C:**

The bill prohibits local units of government from owning or constructing telecommunications facilities that are used to provide service to the public, unless the local unit of government leases the facility to a telecommunications provider that is not a local unit of government. In addition, the local unit of government's ~~electorate~~ <sup>the electorate of</sup> must approve the lease in a referendum. Also, the local unit of government must submit a financing plan and budget to the PSC. For a local unit of government that owns or has commenced construction on a telecommunications facility on the effective date of the bill, the prohibition does not apply until ~~5~~ <sup>five</sup> years after the effective date.

the electorate of

five

3

**INSERT 4A:**

The bill makes other changes to the regulation of telecommunications providers, including all of the following:

1. The bill requires the PSC, in making telecommunications-related decisions and orders, to promote the availability of high quality telecommunications services at reasonable rates, facilitate the development of competitive markets for local telecommunications services, protect the public against monopolies, and ensure the effective regulation of large price-regulated telecommunications utilities that have control or market power over essential telecommunications facilities.



2. The bill provides that, to the extent authorized under federal law, the PSC has jurisdiction to supervise and regulate telephone numbers and area codes used by any telecommunications provider.

3. The bill allows the PSC to require telecommunications providers and providers of cable television service to provide information that the PSC determines is necessary for the PSC to prepare a biennial report regarding the status of investments in advanced telecommunications infrastructure that the PSC must submit to the joint committee on information policy and technology under current law.

4. The bill allows the PSC to order rates, tolls, and charges of certain telecommunications utilities whose access rates exceed benchmark levels specified in a PSC order regarding access costs and charges.

(end of insert)

## Kunkel, Mark

---

**From:** Stolzenberg, John  
**Sent:** Monday, February 25, 2002 11:27 PM  
**To:** Kunkel, Mark  
**Cc:** Smyrski, Rose  
**Subject:** Drafting instructions

Mark,

Here are the changes that Rep. Montgomery would like to make to LRB-4955/1. I've asked DATCP staff to identify the LRB draft that Insert A is excerpted from. Once I get that number tomorrow, I'll forward it to you.

John



LRB-4955-1  
anges 2-25-02 ver.



Insert A.pdf

---

John Stolzenberg,  
Legislative Council Staff Scientist  
Suite 401, One East Main Street  
PO Box 2536  
Madison, WI 53701-2536  
Direct: 608-266-2988  
Fax: 608-266-3830

**Changes to LRB-4955/1**  
**February 25, 2002**

- ✓ 1. Page 7, line 3: substitute "public service commission" for "department of commerce".
- ✓ 2. Page 8, lines 8 to 23: convert wireless 911 related appropriations to appropriations in PSC ch. 20 schedule.
- MGG ✓ 3. Page 9, line 3: after that line insert: INSERT A, DATCP ch. 93 language, attached
- ✓ 4. Page 10, line 24: after that line insert "(d) This section does not apply to a telecommunications service provided on a continuing or periodic basis."
- ✓ 5. Page 11, line 9: delete "10" and substitute "5".
- ✓ 6. Page 11, lines 10 to 20: delete these lines.
- ✓ 7. Page 16, line 18: substitute "anticompetitive behavior" for "monopolies".
- ✓ 8. Page 17, line 12: after "utility" insert "with more than 500,000 access lines".
- email ✓ 9. Page 17, line 17: after "action" insert "if the commission determines during its annual review of permitted price increases under sub. (1) (c) that a price-regulated utility with more than 500,000 access lines has provided inadequate service or insufficient investment".
- ✓ 10. Page 18, lines 9: delete lines 9 to 11. [Provision on alternative telecommunications utility not needed.]
- ✓ 11. Page 18, line 13: delete "include" and substitute "means all services and facilities provided by a telecommunications provider to another telecommunications provider, including".
- ✓ 12. Page 18, line 15: delete "operator services and directory assistance,". [PSC said in OSS Docket that these services were competitive.]
- ✓ 13. Page 18, line 24: insert after that line:  
"SECTION . 196.219 (3) (intro) is amended to read:  
  
(3) (intro.) Prohibited practices. A telecommunications utility with respect to its regulated services, which include wholesale services, or any other telecommunications provider with respect to its offering of local exchange services may not do any of the following:"
- ✓ 14. Page 19, line 20: delete the material beginning with "receives" and ending with "service" on line 2 on page 20 and substitute "provides to itself or to any of its affiliates".
- ✓ 15. Page 20, line 6: delete lines 6 to 8. [PSC uses 2 definitions of "repeat trouble report," depending on the type of utility.]
- ✓ 16. Page 20, line 15: after "date]" insert "and after notice and reasonable opportunity to be heard" [Based on language in s. 196.199 (3) d.)]

email

~~17~~ Page 21, line 11: delete lines 11 and 12 and substitute "(c) Wholesale service standards. 1. In addition to any order already issued by the commission with respect to wholesale service, the commission shall, no later than 90 days after the effective date of this subdivision .... [reviser insert date] and after notice and reasonable opportunity to be heard, by order, establish minimum". [Notice and hearing language based on language in s. 196.199 (3) d.)]

~~18~~ Page 21, line 23: delete lines 23 and 24.

~~19~~ Page 21, line 24: after that line insert a new provision in s. 196.219 that incorporates the following provisions from SB 451 (LRB-4912/1), except apply the provision to all telecommunications utilities rather than a large price-regulated utility: s. 196.1995 (2) (a) [page 22, lines 21 to 24]; s. 196.1995 (3) (a) first 2 sentences [page 23, lines 7 to 14]; and s. 196.1995 (3) (b) [page 23, line 20 to page 24, line 3]. [Notc: did not add definitions from s. 196.1995 (1) [page 22, lines 6 to 20] as the PSC has already identified network elements, etc. in its ongoing Ameritech dockets.]

~~20~~ Page 22, line 2: delete "a telecommunications provider determines that it" and substitute "the commission determines that a telecommunications provider". + allow PSC to issue orders prospectively in this section with self executing credits – see III. B. 3. e. in drafting instructions. Use "self executing" and define it. + clarify that prospective order can be part of order under s. 196.219 (3m) (b) 1. or (c) 1. + allow PSC to order payment to the PSC as in SEC 32 for an order covering a prospective or past practice.

email

~~21~~ Page 14, line 9 and 14: ? [Clarify, if needed, that "take administrative action" includes seeking penalties. See other Stats. that refer to "directly assess" a forfeiture, including s. 196.199 (3) (d).]

~~22~~ Page 22, lines 9 and 14: delete "including initiating a contested case,".

~~23~~ Page 23, line 3: after "utility" insert "or alternative telecommunications utility".

email

~~24~~ Page 23, line 6: insert "or the commission" after "court".

email

~~25~~ Page 24, line 13: delete the material beginning with "An" and ending with "the" on line 14 and substitute "The commission's authority under this subsection includes the authority to require a".

~~26~~ Page 26, line 10: delete "the telecommunications facility to a" and substitute " , on a nondiscriminatory basis, the telecommunications facility to any".

~~27~~ Page 27, line 10: delete "owned" and substitute "any of the following: a. Owned".

~~28~~ Page 27, line 11: delete "construction has commenced" and insert "financing has been secured".

~~29~~ Page 27, line 13: after that line insert:

"b. Leased to a local governmental unit, state agency, school district, cooperative educational service agency, technical college district, public library board, public library system, federally recognized Indian tribe or band located in this state, or volunteer fire company or fire department organized under ch. 213, under a contract or agreement



under s. 66.0301, 66.0303, or 120.25 or a similar contract or agreement for the sharing of facilities." [Based on SEC 11 in AB 518.]

3. If the commission determines that the requirements in subd. 1 b. and c. do not adequately protect the public <sup>interest</sup> from any unfair competitive advantage that a local governmental unit that leases a telecommunications facility under subd. 1.a. may gain as a result of the local governmental unit being a governmental entity, the commission shall establish by rule additional requirements to protect the public interest. The rules may establish any of the following requirements:

- a. That the telecommunications facility may only be paid for from revenues derived from the leasing of the facility.
- b. That the construction and operation of the telecommunications facility is subject to the same requirements, fees, ~~taxes~~ and penalties relating to the use of public rights-of-way as apply to a telecommunications facility constructed or operated by a telecommunications provider that is not owned or controlled by a local governmental unit.
- c. Other requirements that the commission determines are necessary to protect the public interest."

✓ 30. Page 30, lines 1 to 11: substitute "public service commission" for "department of commerce" on lines 1, 3 and 8.

✓ 31. Page 31, line 7: after that line insert:

"(4) REMEDIAL PAYMENTS. The treatment of sections 196.219 (3s) and 196.37 (2) of the statutes, as affected by this act, are intended to clarify and confirm the authority of the public service commission and shall not be construed to imply that the commission lacked this authority prior to the enactment of this act."

(End)

(3m)

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Prepared at the request of Rep. Phil Montgomery  
By John Stolzenberg, Legislative Council Staff

.....;

1           **SECTION 1.** 93.01 (1r) of the statutes is created to read:

2           93.01 (1r) "Civil investigative demand" means a written document prepared by the  
3 department that is related to the enforcement of chs. 93 to 100 and that orders a person to do  
4 any of the following:

5           (a) Provide originals or copies of documents, records, or reports in the person's custody.

6           (b) Answer specific questions submitted by the department in the form of written  
7 depositions, interrogatories, or requests for admissions.

8           (c) Allow employees of the department to review <sup>PLAIN</sup> ~~or~~ <sup>TEXT per John S.</sup> and copy documents, records, or  
9 reports in the person's custody.

10          **SECTION 2.** 93.14 (1m) of the statutes is created to read:

11          93.14 (1m) (a) Any person who has been served with a department complaint, notice,  
12 order, or other process as authorized in s. 93.18 (5) shall be subject to the department's  
13 authority and jurisdiction, as limited by par. (b).

14          (b) The department's jurisdiction may not exceed the jurisdiction granted to courts  
15 under s. 815.05.

16          **SECTION 3.** 93.14 (3) of the statutes is amended to read:

17          93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to comply  
18 with a subpoena, order, or civil investigative demand, or refuse to testify may be coerced as  
19 provided in s. 885.12.

20          **SECTION 4.** 93.15 (1) of the statutes is amended to read:

21          93.15 (1) The department may, by general or special order, require persons engaged in  
22 ~~business~~ to file with the department, at such time and in such manner as the department may

1 direct, sworn or unsworn reports or sworn or unsworn answers in writing to specific questions,  
2 as to any matter which the department may investigate.

3 SECTION 5. 93.15 (2) of the statutes is amended to read:

4 93.15 (2) The department or any of its authorized agents may have access to and may  
5 copy any document, or any part thereof, which is in the possession or under the control of any  
6 person engaged in business, if such document, or such part thereof, is relevant to any matter  
7 which the department may investigate.

8 (END)

**Kunkel, Mark**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 8:47 AM  
**To:** Stolzenberg, John  
**Subject:** Assembly task force

Regarding item 9 of your instructions:

Page 17, line 17: after "action" insert "if the commission determines during its annual review of permitted price increases under sub. (1) (c) that a price-regulated utility with more than 500,000 access lines has provided inadequate service or insufficient investment".

Do you want to allow a court to also be able to impose the forfeiture? And why do you need this language? When else would the PSC make such a determination?

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



① Court may impose forfeiture on any telecom. utility

② PSC may directly impose forfeiture on large telecom. utility - but only in connection with annual review

**Kunkel, Mark**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 8:51 AM  
**To:** Stolzenberg, John  
**Subject:** Another question

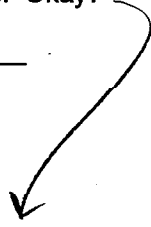
Regarding item 12:

Page 18, line 15: delete "operator services and directory assistance.". [PSC said in OSS Docket that these services were competitive.]

I will specify that "wholesale services" do not include these items. Okay?

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



*Okay - discussed  
with John S.*

**Kunkel, Mark**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:08 AM  
**To:** Stolzenberg, John  
**Subject:** Another question

Regarding the bold and italicized language in item 17:

Page 21, line 11: delete lines 11 and 12 and substitute "(c) *Wholesale service standards*. 1. ***In addition to any order already issued by the commission with respect to wholesale service***, the commission shall, no later than 90 days after the effective date of this subdivision .... [reviser insert date] and after notice and reasonable opportunity to be heard, by order, establish minimum". [Notice and hearing language based on language in s. 196.199 (3) d.)]

Why is that language necessary? First, if you say the PSC must do something by a deadline, then they must do that thing by the deadline. Second, if they've already done something that a bill tells them to do, why should they have to do it again?

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

→ goes to the issue of  
"clarifying" PSC's  
authority, rather than  
creating new authority

## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:20 AM  
**To:** Stolzenberg, John  
**Subject:** Additional question

Regarding item 21:

Page 14, line 9 and 14: ? [Clarify, if needed, that "take administrative action" includes seeking penalties. See other Stats. that refer to "directly assess" a forfeiture, including s. 196.199 (3) (d).]

(You are referring to page 22, not page 14, right?)

I don't think any clarification is necessary. See p. 22, lines 19-20, which amend s. 196.219 (4) (b) to provide that the PSC may directly impose forfeitures for violations of s. 196.219.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

*I  
→ made references to imposition  
of forfeitures by PSC  
consistent.*

**Kunkel, Mark**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:27 AM  
**To:** Stolzenberg, John  
**Subject:** another question

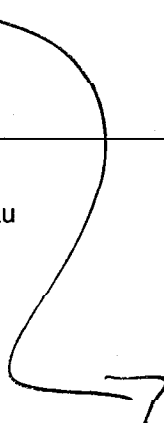
Regarding item 23:

Page 23, line 3: after "utility" insert "or alternative telecommunications utility".

I will also create s. 196.203 (6), which will provide that an alt. telecom. utility (ATU) is subject to s. 196.219, because you need to create an exception to s. 196.203 (1), which provides that, except as provided in s. 196.203, ATUs are exempt from ch. 196.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



→ NO. The provision should apply to an "ATU" only if PSC subjects ATU to s. 196.219 under s. 196.203 (4)



## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:43 AM  
**To:** Stolzenberg, John  
**Subject:** another question

Regarding item 24, I would revise the language to say instead:

A court imposing a forfeiture on a telecommunications provider under this subsection or the commission imposing a forfeiture on a telecommunications provider under sub. (4) (b) shall consider, etc.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

OK

**Kunkel, Mark**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:49 AM  
**To:** Smyrski, Rose; Stolzenberg, John  
**Subject:** RE: Question on language

Regarding the proposed language, I would do something different:

Nonstatutory provision.

Legislative intent. The treatment of sections 196.219 (3s) and 196.37 (1) and (2) of the statutes by this act is intended only to clarify the authority of the public service commission. No substantive change is intended.

The reason is that we don't like to say something should only be construed a certain way, because that appears to tell a court what it can and cannot do, which is something the legislature can't do. (Yes, I am aware that the statutes contain such wording, but it is poor drafting.)

Also, Rose, I don't understand your message below.

→ I used my language.

-- Mark

- MDR

-----Original Message-----

**From:** Smyrski, Rose  
**Sent:** Tuesday, February 26, 2002 9:28 AM  
**To:** Kunkel, Mark; Stolzenberg, John  
**Subject:** FW: Question on language  
**Importance:** High

Please delete (2) on the language below. Questions please call.

-----Original Message-----

**From:** Lipschultz, Dan M. [mailto:dlipschultz@mcleodusa.com]  
**Sent:** Tuesday, February 26, 2002 12:38 AM  
**To:** Smyrski, Rose  
**Subject:** Re: Question on language

This looks good to me. But I suggest checking with Niles Berman. I'm going to forward this on to Niles and suggest that he call you. Thanks.

Dan.

From: "Smyrski, Rose" <Rose.Smyrski@legis.state.wi.us> on 02/25/2002 10:44 PM

To: Dan M. Lipschultz/North/MCLEOD@MCLEOD  
cc:  
Subject: Question on language

1. Page 31, line 7: after that line insert:

"(4) Remedial payments. The treatment of sections 196.219 (3s) and 196.37 (2) of the statutes, as affected by this act, are intended to clarify and confirm the authority of the public service commission and shall not be construed to imply that the commission lacked this authority prior to the enactment of this act."

Dan--the above language does it need to apply to the wholesale order? Does it need to be expanded? Or is it ok? John wasn't quite sure if this captures your intent.

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## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 9:57 AM  
**To:** Stolzenberg, John  
**Subject:** Item 25

Regarding item 25:

Page 24, line 13: delete the material beginning with "An" and ending with "the" on line 14 and substitute "The commission's authority under this subsection includes the authority to require a".

I will also refer to "an order under this subsection" rather than to "the order" on page 24, line 15.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

OK

## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, February 26, 2002 10:54 AM  
**To:** Stolzenberg, John  
**Subject:** another question

Regarding item 29, how can a telecom. facility that is owned by a local governmental unit be subject to the same taxes as one owned by a nongovernmental entity? (See your new subd. 3. b. on your page 3.)

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

*I  
eliminated the  
references to  
"taxes"*

## Kunkel, Mark

---

**From:** Stolzenberg, John  
**Sent:** Tuesday, February 26, 2002 1:40 PM  
**To:** Kunkel, Mark  
**Subject:** Montgomery item #20 - remedial orders

Mark,

Here's my alternative language for s. 196.219 (3s):

(1) The commission may issue an order establishing billing credits or other remedies for the failure of a telecommunications provider to comply with a requirement of this section that is specified in the order [and that occurs after the effective date of the order]. The telecommunications provider shall provide the remedy to its consumers affected by the failure to comply whenever it determines that it has failed to comply with the requirement based upon a condition or test specified in the order.

(2) The commission may issue an order requiring that, if the commission determines that a telecommunications provider has failed to comply with a requirement of this section, the telecommunications provider must provide its consumers who were affected by the failure with a billing credit or other remedy specified in the order.

Also, do you think that a phrase such as "these remedies are in addition to any other remedy or penalty that may be imposed for a violation of this section." should be added?

John

---

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