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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* 15.795 (title), 93.14 (3), 93.15
 3 (1), 93.15 (2), 196.196 (1) (g) 1. a., 196.196 (3) (a), 196.219 (2m) (title), 196.219
 4 (3) (intro.), 196.219 (4) (a), 196.219 (4) (b), 196.22, 196.37 (1), 196.37 (2), 196.499
 5 (1) (b), 196.50 (4) (title), 196.66 (1), 196.66 (3) (b) (intro.), 198.12 (6) and 198.22
 6 (6); and *to create* 15.795 (2), 20.155 (1) (Ls), 20.155 (3) (title), 20.155 (3) (g),
 7 20.155 (3) (h), 20.155 (3) (i), 20.155 (3) (kl), 93.01 (1r), 93.14 (1m), 100.2065,
 8 100.207 (1) (a), 100.207 (1) (c), 100.207 (3g), 100.207 (3m), 100.207 (5g), 100.207
 9 (5m), 100.207 (6) (br), 146.70 (3m), 196.02 (13), 196.025 (1m), 196.196 (5) (f) 1.
 10 g., 196.196 (5) (f) 4., 196.196 (6), 196.1995, 196.202 (2) (b), 196.219 (1) (c),
 11 196.219 (2m) (b), 196.219 (3) (p), 196.219 (3m), 196.219 (3s), 196.219 (6), 196.44
 12 (1) (b), 196.499 (12) (am), 196.50 (4) (a), 196.50 (4) (c) and 227.01 (13) (cm) of the
 13 statutes; **relating to:** creating a wireless 911 board; imposing a surcharge on
 14 wireless telephone customers; making grants for 911 emergency telephone

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service; ~~retail and wholesale telecommunications service standards;~~
~~telecommunications access rates; enforcement authority of the public service~~
~~commission regarding telecommunications providers; jurisdictional and~~
enforcement authority of the department of agriculture, trade and consumer
protection; construction and ownership of telecommunications facilities by
local units of government; services provided by telecommunications providers;
authority of the public service commission regarding area codes and telephone
numbers; ~~and telecommunications-related decisions, orders, and rules;~~
~~providing an exemption from rule-making procedures; granting rule-making~~
authority; ^{and} making appropriations ~~and providing penalties.~~

Analysis by the Legislative Reference Bureau

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) makes changes to the PSC's enforcement authority; 3) restricts ownership or construction of telecommunications facilities by local units of government; 4) makes changes to the telecommunications consumer protection law; and 5) makes various other changes.~~

911 wireless emergency telephone service

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-cent surcharge on customer bills and pay the surcharge to the board, except that in fiscal year 2002-03, a wireless telecommunications 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 increase the surcharge

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only 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.
2. The bill allows the board to withhold from public inspection any information the board 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.

Retail and wholesale service standards

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

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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 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 complying with any other standard the PSC specifies. The wholesale standards apply to telecommunications utilities that the PSC specifies in the order or in a subsequent order. The bill provides a definition of "wholesale services", which the PSC may modify by order.

The bill also requires telecommunications utilities and providers to provide wholesale services on the same terms and conditions that the utility or provider provides to itself or any of its affiliates.

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, the 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.

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 clarifies that the PSC also may order reasonable compensation for persons injured by reason of rates, tolls, charges, schedules, or joint rates of telecommunications providers that are investigated. The bill also clarifies that the PSC may order a telecommunications provider to make payments to the PSC or to a person affected by the rates, tolls,

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charges, schedules, or joint rates. The PSC may use a payment that it receives for any purpose determined by the PSC relating to maintaining or improving telecommunications quality.

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.

4. The bill allows a court 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 five percentage points and an incentive mechanism of zero percentage points under a price cap formula under current law. In addition, the PSC may directly impose such a forfeiture against a price-regulated telecommunications utility with more than 500,000 access lines.

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 or alternative 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.

Local government construction and ownership of telecommunications facilities

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, on a nondiscriminatory basis, the facility to a telecommunications provider that is not a local unit of government. In addition, the electorate of the local unit of government must approve the lease in a referendum and the local unit of government must submit a financing plan and budget to the PSC. Also, under certain circumstances, the bill allows the PSC to promulgate additional requirements that must be satisfied. For a local unit of government that owns or has

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obtained financing for a telecommunications facility on the effective date of the bill, the prohibition does not apply until five years after the effective date. In addition, the bill's prohibition does not apply to certain telecommunications facilities that are leased to other state and local governmental entities for the purpose of sharing facilities or intergovernmental cooperation.

Restrictions on telecommunications providers in initiating service and restrictions on contracts

This bill provides that a telecommunications provider may not provide a telecommunications service that is not always provided during each billing period 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 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

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 anticompetitive behavior, and ensure the effective regulation of telecommunications utilities that have control or market power over essential telecommunications facilities.~~

1. 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.

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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.

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.

6. The bill requires a telecommunications utility to provide interconnection collocation, and network elements in a manner that promotes the maximum development of competitive telecommunications service offerings in this state.

7. The bill requires that the rates at which, and the terms and conditions on which, a telecommunications utility provides physical or virtual collocation of any type of equipment for interconnection with, or access to the network elements of, the utility or any collocated telecommunications provider at the utility's premises, must be just, reasonable, and nondiscriminatory.

8. The bill requires a telecommunications utility to provide, upon request, for cross-connects between the facilities or equipment of collocated telecommunications providers that are the most reasonably direct and efficient, as determined by the collocated telecommunications provider. Also upon request, a telecommunications utility must provide for cross-connects between the facilities or equipment of a collocated telecommunications provider and the network elements platform or transport facilities of a noncollocated telecommunications provider.

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. 15.795 (title) of the statutes is amended to read:

2 15.795 (title) **Same; attached board and office.**

3 SECTION 2. 15.795 (2) of the statutes is created to read:

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1 15.795 (2) WIRELESS 911 BOARD. (a) There is created a wireless 911 board
2 attached to the public service commission under s. 15.03 consisting of the following
3 members:

4 1. One representative to the assembly, appointed by the speaker of the
5 assembly.

6 2. One representative to the assembly, appointed by the assembly minority
7 leader.

8 3. One senator, appointed by the president of the senate.

9 4. One senator, appointed by the senate minority leader.

10 5. Four persons who represent the interests of commercial mobile radio service
11 providers, as defined in s. 196.01 (2g), appointed by the governor.

12 6. Four persons who represent the interests of public agencies, as defined in s.
13 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate
14 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the
15 governor.

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

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

19 20.155 (1) (Ls) *Telecommunications provider payments.* All moneys received
20 from payments by telecommunications providers under s. 196.37 (2) for purposes
21 determined by the commission under s. 196.37 (2).

22 SECTION 4. 20.155 (3) (title) of the statutes is created to read:

23 20.155 (3) (title) WIRELESS 911 BOARD.

24 SECTION 5. 20.155 (3) (g) of the statutes is created to read:

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1 20.155 (3) (g) *General program operations.* Two and one-half percent of all
2 moneys received under s. 146.70 (3m) (d) 3. for general program operations of the
3 wireless 911 board, including contracting for audits under s. 146.70 (3m) (b) 5.

4 **SECTION 6.** 20.155 (3) (h) of the statutes is created to read:

5 20.155 (3) (h) *Wireless provider grants.* Forty-eight and three-fourths percent
6 of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board to make
7 grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers to the
8 appropriation under par. (k) as provided under s. 146.70 (3m) (b) 3.

9 **SECTION 7.** 20.155 (3) (i) of the statutes is created to read:

10 20.155 (3) (i) *Public agency and wireless provider grants.* Forty-eight and
11 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the
12 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and
13 to wireless providers under s. 146.70 (3m) (b) 3.

14 **SECTION 8.** 20.155 (3) (k) of the statutes is created to read:

15 20.155 (3) (k) *Public agency grants.* All moneys transferred from the
16 appropriation account under par. (h) for the wireless 911 board to make grants to
17 public agencies under s. 146.70 (3m) (b) 1.

18 **SECTION 9.** 93.01 (1r) of the statutes is created to read:

19 93.01 (1r) "Civil investigative demand" means a written document prepared
20 by the department that is related to the enforcement of chs. 93 to 100 and that orders
21 a person to do any of the following:

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

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

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1 (c) Allow employees of the department to review and copy documents, records,
2 or reports in the person's custody.

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

4 93.14 (1m) (a) Any person who has been served with a department complaint,
5 notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the
6 department's authority and jurisdiction, as limited by par. (b).

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

9 **SECTION 11.** 93.14 (3) of the statutes is amended to read:

10 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to
11 comply with a subpoena, order, or civil investigative demand, or refuse to testify may
12 be coerced as provided in s. 885.12.

13 **SECTION 12.** 93.15 (1) of the statutes is amended to read:

14 93.15 (1) The department may, by general or special order, require persons
15 ~~engaged in business~~ to file with the department, at such time and in such manner
16 as the department may direct, sworn or unsworn reports or sworn or unsworn
17 answers in writing to specific questions, as to any matter which the department may
18 investigate.

19 **SECTION 13.** 93.15 (2) of the statutes is amended to read:

20 93.15 (2) The department or any of its authorized agents may have access to
21 and may copy any document, or any part thereof, which of a document, that is in the
22 possession or under the control of any person engaged in business, if such the
23 document, or such part thereof of the document, is relevant to any matter which that
24 the department may investigate.

25 **SECTION 14.** 100.2065 of the statutes is created to read:

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

In this section:

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

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

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

SECTION 15. 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and amended to read:

100.207 (1) DEFINITION DEFINITIONS. (intro.) In this section, "telecommunications:

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

SECTION 16. 100.207 (1) (a) of the statutes is created to read:

100.207 (1) (a) "Telecommunications provider" has the meaning given in s. 196.01 (8p).

SECTION 17. 100.207 (1) (c) of the statutes is created to read:

100.207 (1) (c) "Telecommunications subscription" means a contract between a telecommunications provider and a customer for a telecommunications service that is always provided to the customer during each billing period.

SECTION 18. 100.207 (3g) of the statutes is created to read:

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

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1 1. The telecommunications provider reasonably believes that the customer
2 knowingly consented to the billing.

3 2. The telecommunications provider confirms with the customer, before
4 providing the telecommunications service, that the customer knowingly consented
5 to the billing.

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

8 1. The telecommunications provider shall distinguish the billing for the other
9 goods or services from the billing for the telecommunications service in a conspicuous
10 manner approved by the department.

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

13 **SECTION 19.** 100.207 (3m) of the statutes is created to read:

14 100.207 (3m) TELECOMMUNICATIONS SERVICE CONFIRMATION. (a) A
15 telecommunications provider may not provide a telecommunications service to a
16 customer unless all of the following apply:

17 1. The telecommunications provider reasonably believes that the customer
18 knowingly consented to receive the service.

19 2. The telecommunications provider confirms with the customer, before
20 providing the telecommunications service, that the customer knowingly consented
21 to receive the service.

22 3. At the time that the telecommunications provider provides confirmation
23 under subd. 2., the telecommunications provider informs the customer that he or she
24 may, before the service is activated, withdraw his or her consent to receive the service
25 and informs the customer of the manner by which that consent may be withdrawn.

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1 (b) Paragraph (a) does not apply to a telecommunications service that is
2 provided as part of a telecommunications subscription.

3 **SECTION 20.** 100.207 (5g) of the statutes is created to read:

4 100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider
5 may place in a contract entered into with a customer located in this state a clause that
6 provides that a law of a state other than this state applies to the parties or terms of
7 the contract or the rights and remedies under the contract.

8 **SECTION 21.** 100.207 (5m) of the statutes is created to read:

9 100.207 (5m) RECORD REQUIREMENTS. Any person who provides
10 telecommunications service to any customer in this state shall maintain each billing
11 and collection record that is made in providing the telecommunications service for
12 a period of 5 years beginning on the date that the record is made.

13 **SECTION 22.** 100.207 (6) (br) of the statutes is created to read:

14 100.207 (6) (br) Any person who fails to comply with a subpoena, order, or civil
15 investigative demand that is served upon the person for the purposes of
16 administering or enforcing this section or for the purpose of conducting an
17 investigation under this section may be coerced to comply as provided in s. 885.12.

18 **SECTION 23.** 146.70 (3m) of the statutes is created to read:

19 146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

20 1. "Board" means the wireless 911 board.

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

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

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1 4. "Wireless public safety answering point" means a facility to which a call on
2 a wireless provider's system is initially routed for response, and on which a public
3 agency directly dispatches the appropriate emergency service provider, relays a
4 message to the appropriate emergency service provider, or transfers the call to the
5 appropriate emergency services provider.

6 (b) *Grants.* 1. From the appropriations under s. 20.155 (3) (i) and (k), the board
7 shall make grants to public agencies that operate public safety answering points for
8 eligible expenses under par. (c). A public agency is eligible for a grant under this
9 subdivision only if the board determines that the public agency is providing, or has
10 begun to implement, 911 emergency services for wireless telephone users and has
11 complied with the federal wireless orders. The total amount in grants that a public
12 agency may receive under this subdivision may not exceed 50% of the public agency's
13 total eligible expenses under par. (c).

14 2. From the appropriation under s. 20.155 (3) (h), the board shall make grants
15 to wireless providers for actual expenses incurred by wireless providers to upgrade,
16 purchase, lease, program, install, test, operate, or maintain all data, hardware, and
17 software necessary to comply with the federal wireless orders.

18 3. If the board determines that there are insufficient funds in the appropriation
19 account under s. 20.155 (3) (h) to make a grant under subd. 2., and the board has not
20 paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3
21 months, the board may make the grant to the wireless provider from the
22 appropriation account under s. 20.155 (3) (i). If the board makes a grant under this
23 subdivision, the board shall, as soon as practicable, transfer moneys from the
24 appropriation account under s. 20.155 (3) (h) to the appropriation account under s.
25 20.155 (3) (k) in an amount equal to the amount of the grant.

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

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

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

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

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

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

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

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

22 b. Vehicles and equipment in vehicles.

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

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

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

4 (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of
5 50 cents per month for each telephone number that has a billable address in this state
6 and shall identify the surcharge on a customer's bill on a separate line that is
7 identified as "Wisconsin Wireless 911 Surcharge." The board may promulgate rules
8 that increase or decrease the surcharge, except that the board may not increase the
9 surcharge more than once per year, any increase must be uniform statewide and may
10 not exceed 10 cents, and the surcharge may not exceed \$1.

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

13 3. The board shall promulgate rules establishing requirements for wireless
14 providers to collect the surcharge from their customers beginning with the first bills
15 issued after July 1, 2002. Except as provided in subd. 4., a wireless provider shall
16 pay the surcharges to the board no more than 60 days after the end of the calendar
17 month in which the surcharges are collected. The board shall bring an action to
18 collect a surcharge that is not paid by a customer and the customer's wireless
19 provider is not liable for the unpaid surcharge.

20 4. Wireless providers may retain 2% of the surcharges collected in fiscal year
21 2002-03 for reimbursing costs related to collecting the surcharge, including
22 reprogramming billing systems.

23 (e) *Confidentiality of information.* The board may withhold from public
24 inspection any information that would aid a competitor of a wireless provider in
25 competition with the wireless provider. The board shall establish procedures for

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1 internal management that prohibit members of the board from having access to
2 confidential business information submitted by wireless providers.

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

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

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

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

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

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

24 **SECTION 24.** 196.02 (13) of the statutes is created to read:

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INSERT 18-7

1 196.02 (13) TELEPHONE NUMBERS AND AREA CODES. To the extent authorized
2 under federal law, the commission has jurisdiction to supervise and regulate
3 telephone numbers and area codes used by any telecommunications provider in this
4 state and to do all things necessary and convenient to such jurisdiction. The
5 commission may withhold from public inspection any information obtained from a
6 telecommunications provider under this subsection that would aid a competitor of
7 the telecommunications provider.

8 ~~SECTION 25. 196.025 (1m) of the statutes is created to read:~~

9 ~~196.025 (1m) In making all telecommunications-related decisions and orders,
10 including rate setting and rule-making orders, the commission shall promote the
11 availability of high quality telecommunications services at reasonable rates,
12 facilitate the development of competitive markets for local telecommunications
13 services, protect the public against anticompetitive behavior, and ensure the
14 effective regulation of telecommunications utilities that have control or market
15 power over essential telecommunications facilities.~~

16 ~~SECTION 26. 196.196 (1) (g) 1. a. of the statutes is amended to read:~~

17 ~~196.196 (1) (g) 1. a. The goal to be achieved, which may include promoting
18 competition, service quality, infrastructure deployment, economic development,
19 consumer choice, productivity, efficiency, quality of life, societal goals, or universal
20 service.~~

21 ~~SECTION 27. 196.196 (3) (a) of the statutes is amended to read:~~

22 ~~196.196 (3) (a) Except to the extent expressly permitted by this section and ss.
23 196.19 (1m), 196.194, 196.195, 196.1995, 196.20 (1m), 196.204, 196.209 and 196.219,
24 the commission may not have jurisdiction over the prices or terms and conditions for~~

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1 the offering of any other services, including new telecommunications services,
2 offered by a price-regulated telecommunications utility.

3 **SECTION 28.** 196.196 (5) (f) 1. g. of the statutes is created to read:

4 196.196 (5) (f) 1. g. Competition for telecommunications services throughout
5 the state.

6 **SECTION 29.** 196.196 (5) (f) 4. of the statutes is created to read:

7 196.196 (5) (f) 4. The commission may require a telecommunications provider
8 or provider of cable television service to submit to the commission any information
9 that the commission determines is necessary to prepare the report under subd. 1.
10 The commission may withhold from public inspection any information obtained
11 under this subdivision that would aid a competitor of a telecommunications provider
12 or provider of cable television service.

13 **SECTION 30.** 196.196 (6) of the statutes is created to read:

14 196.196 (6) PENALTY. A price regulated telecommunications utility that
15 provides inadequate service or makes insufficient investment may be required to
16 forfeit no more than the dollar value of the decrease in rates that would result from
17 applying a penalty mechanism of 5 percentage points and an incentive mechanism
18 of zero percentage points under sub. (1) (c) 1. The commission may directly impose
19 a forfeiture under this subsection by administrative action on a price-regulated
20 telecommunications utility with more than 500,000 access lines in use in this state
21 if the commission determines during its annual review of rate increases under sub.
22 (1) (c) that the utility has provided inadequate service or made insufficient
23 investment.

24 **SECTION 31.** 196.1995 of the statutes is created to read:

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1 **196.1995 Interconnection, collocation, and network elements.** (1) A
 2 telecommunications utility shall provide interconnection, collocation and network
 3 elements to telecommunications providers in a manner that promotes the maximum
 4 development of competitive telecommunications service offerings in this state.

5 (2) (a) A telecommunications utility shall provide physical or virtual
 6 collocation of any type of equipment for interconnection with, or access to the
 7 network elements of, the utility or any collocated telecommunications provider at the
 8 utility's premises, at rates and on terms and conditions that are just, reasonable, and
 9 nondiscriminatory. In this paragraph, "equipment" includes optical transmission
 10 equipment, multiplexers, remote switching modules, and cross-connects between
 11 the facilities or equipment of other collocated telecommunications providers.

12 (b) Upon request, a telecommunications utility shall provide for each of the
 13 following in a manner that is consistent with safety and network reliability
 14 standards:

15 1. Cross-connects between the facilities or equipment of collocated
 16 telecommunications providers that are the most reasonably direct and efficient, as
 17 determined by the collocated telecommunications provider.

18 2. Cross-connects between the facilities or equipment of a collocated
 19 telecommunications provider and the network elements platform or transport
 20 facilities of a noncollocated telecommunications provider.

21 **SECTION 32.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,
 22 is renumbered 196.202 (2) (intro.) and amended to read:

23 196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service
 24 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and
 25 except that a as follows:

Keep

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INSERT 21-11

SECTION 32

INSERT 21-8

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

9 SECTION 33. 196.202 (2) (b) of the statutes is created to read:

10 196.202 (2) (b) A commercial mobile radio service provider is subject to ss.
 11 196.02 (13) and 196.196 (5) (f) 4.

12 SECTION 34. 196.219 (1) (c) of the statutes is created to read:

13 196.219 (1) (c) "Wholesale services" means all services and facilities provided
 14 by a telecommunications provider to another telecommunications provider,
 15 including preordering, ordering and provisioning, maintenance and repair, network
 16 performance, unbundled elements, system performance, service center availability,
 17 and billing, but not including operator services and directory assistance. The
 18 commission may, by order, modify the definition under this paragraph.

19 SECTION 35. 196.219 (2m) (title) of the statutes is amended to read:

20 196.219 (2m) (title) ACCESS SERVICES AND RATES.

21 SECTION 36. 196.219 (2m) of the statutes is renumbered 196.219 (2m) (a).

22 SECTION 37. 196.219 (2m) (b) of the statutes is created to read:

23 196.219 (2m) (b) 1. In this paragraph, "access order" means the March 23, 1993,
 24 order of the commission on intrastate access costs and charges in docket number
 25 05-TR-103.

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

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

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

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

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

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

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

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

17 **SECTION 38.** 196.219 (3) (intro.) of the statutes is amended to read:

18 196.219 (3) PROHIBITED PRACTICES. (intro.) A telecommunications utility with
19 respect to its regulated services, including wholesale services, or any other
20 telecommunications provider with respect to its offering of local exchange services
21 may not do any of the following:

22 **SECTION 39.** 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

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1 telecommunications utility or telecommunications provider provides to itself or to
2 any of its affiliates.

3 **SECTION 40.** 196.219 (3m) of the statutes is created to read:

4 196.219 (3m) RETAIL AND WHOLESALE SERVICE STANDARDS. (a) *Definitions.* In this
5 subsection:

6 1. "Repeat trouble report" means a trouble report concerning service quality
7 that is received by a telecommunications provider within 30 days after the resolution
8 of an initial trouble report on the same access line.

9 2. "Retail service" means basic residential and business telecommunications
10 service.

11 3. "Trouble report" means a report to a telecommunications provider by a retail
12 or wholesale customer about a problem regarding a retail or wholesale service
13 provided by the telecommunications provider.

14 (b) *Retail service standards.* 1. No later than 90 days after the effective date
15 of this subdivision ... [revisor inserts date], the commission shall, by order, after
16 notice and reasonable opportunity to be heard, establish standards that require a
17 telecommunications provider specified in subd. 2. to do all of the following:

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

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

20 c. Minimize the frequency of repeat trouble reports.

21 d. Minimize missed retail service repair appointments.

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

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

BILL**SECTION 40**

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

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

11 (c) *Wholesale service standards.* 1. In addition to any order regarding
12 wholesale services that the commission issued before the effective date of this
13 subdivision [revisor inserts date], the commission shall, no later than 90 days
14 after the effective date of this subdivision [revisor inserts date], by order, after
15 notice and reasonable opportunity to be heard establish standards that require a
16 telecommunications utility specified in the order to do all of the following:

- 17 a. Initiate wholesale service in response to orders in a timely manner.
18 b. Repair wholesale service outages in a timely manner.
19 c. Minimize the frequency of repeat trouble reports.
20 d. Comply with any other requirement specified by the commission relating to
21 wholesale service quality.

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

25 **SECTION 41.** 196.219 (3s) of the statutes is created to read:

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1 196.219 (3s) REMEDIAL ORDERS. (a) The commission may issue an order
2 establishing billing credits or other remedies for the failure of a telecommunications
3 provider to comply with a requirement of this section that is specified in the order
4 and that occurs after the effective date of the order. The order may require a
5 telecommunications provider to provide the billing credits or other remedies to its
6 consumers who are affected by the failure to comply whenever the
7 telecommunications provider determines that it has failed to comply with the
8 requirement based upon a condition or test specified in the order.

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

14 **SECTION 42.** 196.219 (4) (a) of the statutes is amended to read:

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

19 **SECTION 43.** 196.219 (4) (b) of the statutes is amended to read:

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

BILL**SECTION 43**

1 ~~appropriate relief permitted under this chapter. The commission may directly~~
2 ~~impose forfeitures for violations of this section by administrative action.~~

3 **SECTION 44.** 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, or an alternative telecommunications
10 utility on which the commission has imposed a requirement of this section under s.
11 196.203 (5), that violates this section may be required to forfeit not more than \$5,000
12 for each offense. Each day of continued violation constitutes a separate offense.

13 (c) A court imposing a forfeiture on a telecommunications provider under this
14 subsection or the commission imposing a forfeiture on a telecommunications
15 provider under sub. (4) (b) shall consider all of the following in determining the
16 amount of the forfeiture:

- 17 1. The appropriateness of the forfeiture to the volume of business of the
18 telecommunications provider.
- 19 2. The gravity of the violation.
- 20 3. Any good faith attempt to achieve compliance after the telecommunications
21 provider receives notice of the violation.

22 **SECTION 45.** 196.22 of the statutes is amended to read:

23 **196.22 Discrimination forbidden.** No public utility may charge, demand,
24 collect, or receive more or less compensation for any service performed by it within
25 the state, or for any service in connection therewith, than is specified in the schedules

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1 for the service filed under s. 196.19, including schedules of joint rates, as may at the
2 time be in force, or demand, collect, or receive any rate, toll, or charge not specified
3 in the schedule. Payments made for violations of this chapter by telecommunications
4 providers are not contrary to this section.

5 **SECTION 46.** 196.37 (1) of the statutes is amended to read:

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

14 **SECTION 47.** 196.37 (2) of the statutes is amended to read:

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

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1 ~~for any purpose determined by the commission relating to maintaining or improving~~
2 ~~telecommunications service quality, including compensating persons who are~~
3 ~~affected by the measurement, regulation, practice, act, or service.~~

4 SECTION 48. 196.44 (1) of the statutes is renumbered 196.44 (1) (a).

5 SECTION 49. 196.44 (1) (b) of the statutes is created to read:

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

9 SECTION 50. 196.499 (1) (b) of the statutes is amended to read:

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

13 SECTION 51. 196.499 (12) (am) of the statutes is created to read:

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

18 SECTION 52. 196.50 (4) (title) of the statutes is amended to read:

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

21 SECTION 53. 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and
22 amended to read:

23 196.50 (4) (b) No municipality may construct any public utility if there is in
24 operation under an indeterminate permit in the municipality a public utility
25 engaged in similar service other than a telecommunications service, unless it secures

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1 from the commission a declaration, after a public hearing of all parties interested,
2 that public convenience and necessity require the municipal public utility and unless
3 the requirements of par. (c) are satisfied.

4 **SECTION 54.** 196.50 (4) (a) of the statutes is created to read:

5 196.50 (4) (a) In this subsection:

6 1. "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 2. "State agency" means any office, department, independent agency,
11 institution of higher education, association, society, or other body in state
12 government created or authorized to be created by the constitution or any law,
13 including the legislature and courts.

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

17 **SECTION 55.** 196.50 (4) (c) of the statutes is created to read:

18 196.50 (4) (c) 1. Except as provided in subd. 2., a local governmental unit may
19 not construct or own a telecommunications facility, unless all of the following are
20 satisfied:

21 a. The local governmental unit leases, on a nondiscriminatory basis, the
22 telecommunications facility to a telecommunications provider that is not owned or
23 controlled by any local governmental unit.

24 b. Before beginning construction or taking ownership of the
25 telecommunications facility, whichever occurs first, the local governmental unit

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1 submits to the commission a financing plan and budget for constructing or owning
2 the telecommunications facility. The information submitted under this subd. 1. b.
3 shall be open to public inspection.

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

21 d. Any other requirement established in rules promulgated by the commission
22 under subd. 3.

23 2. a. Subdivision 1. does not apply to a telecommunications facility that is
24 owned, or for which a financial institution has agreed in writing to finance, in whole
25 or in part, the cost of construction or ownership, before the effective date of this

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1 subdivision [revisor inserts date]. This subdivision paragraph does not apply 5
2 years after the effective date of this subdivision paragraph [revisor inserts date].

3 b. Subdivision 1. does not apply to a telecommunications facility leased to a
4 local government unit, state agency, school district, cooperative educational service
5 agency, technical college district, public library board, public library system,
6 federally recognized Indian tribe or band located in this state, or volunteer fire
7 company or fire department organized under ch. 213, if the lease is under a contract
8 or agreement under s. 66.0301, 66.0303, or 120.25, or a similar contract or agreement
9 for the sharing of facilities.

10 3. If the commission determines that the requirements under subd. 1. a., b., and
11 c. do not adequately protect the public interest from any unfair competitive
12 advantage that a local governmental unit may gain from its status as a local
13 governmental unit, the commission may promulgate rules establishing additional
14 requirements that a local governmental unit must satisfy before constructing or
15 owning a telecommunications facility, including any of the following:

16 a. That the cost of owning or constructing the telecommunications facility must
17 be funded only from revenues generated from leasing the facility under subd. 1. a.

18 b. That construction and operation of the telecommunications facility must be
19 subject to the same requirements, fees, and penalties relating to the use of public
20 rights-of-way that apply to a telecommunications facility that is not owned or
21 controlled by a local unit of government.

22 c. That the local unit of government must comply with any other requirement
23 that the commission determines is necessary to protect the public interest.

24 SECTION 56. 196.66(1) of the statutes is amended to read:

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SECTION 56

1 **196.66 (1) GENERAL FORFEITURE; FAILURE TO OBEY.** If any public utility or
2 telecommunications provider violates this chapter or ch. 197 or fails or refuses to
3 perform any duty enjoined upon it for which a penalty has not been provided, or fails
4 neglects, or refuses to obey any lawful requirement or order of the commission or the
5 governing body of a municipality or a sanitary commission or any judgment or decree
6 of any court upon its application, for every violation, failure, or refusal the public
7 utility shall forfeit not less than \$25 nor more than \$5,000. The commission may
8 directly impose a forfeiture against a telecommunications provider under this
9 section by administrative action.

10 **SECTION 57.** 196.66 (3) (b) (intro.) of the statutes is amended to read:

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

15 **SECTION 58.** 198.12 (6) of the statutes is amended to read:

16 **198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF**
17 **SERVICE; USE OF STREETS.** The district shall have power and authority to own, acquire
18 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
19 construct any utility or portion thereof to operate, in whole or in part, in the district,
20 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
21 applicable, to construct any addition to or extension of any such utility, and to own,
22 acquire and construct any water power and hydroelectric power plant, within or
23 without the district, to be operated in connection with any such utility, and to
24 operate, maintain and conduct such utility and water power and hydroelectric power
25 plant and system both within and without the district, and to furnish, deliver and

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1 sell to the public and to any municipality and to the state and any state institution
2 heat, light and power service and any other service, commodity or facility which may
3 be produced or furnished thereby, and to charge and collect rates, tolls and charges
4 for the same. For said purposes the district is granted and shall have and exercise
5 the right freely to use and occupy any public highway, street, way or place reasonably
6 necessary to be used or occupied for the maintenance and operation of such utility
7 or any part thereof, subject, however, to such local police regulations as may be
8 imposed by any ordinance adopted by the governing body of the municipality in
9 which such highway, street, way or place is located.

10 **SECTION 59.** 198.22 (6) of the statutes is amended to read:

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

21 **SECTION 60.** ~~227.01 (13) (cm) of the statutes is created to read:~~

22 ~~227.01 (13) (cm) Is an order under s. 196.219 (1) (c), (3m) (b) or (c) or (3s).~~

23 **SECTION 61. Nonstatutory provisions.**

24 (1) WIRELESS 911 SURCHARGE RULES.

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

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

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

22 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section 15.795 (2)
23 (b) of the statutes, as created by this act, the initial members of the wireless 911 board
24 under section 15.795 (2) (a) 5. and 6. of the statutes, as created by this act, shall be
25 appointed to serve the following terms:

BILL

1 (a) One member appointed under section 15.795 (2) (a) 5. of the statutes, as
2 created by this act, and one member appointed under section 15.795 (2) (a) 6. of the
3 statutes, as created by this act, for terms expiring on May 1, 2004.

4 (b) One member appointed under section 15.795 (2) (a) 5. of the statutes, as
5 created by this act, and one member appointed under section 15.795 (2) (a) 6. of the
6 statutes, as created by this act, for terms expiring on May 1, 2005.

7 (c) One member appointed under section 15.795 (2) (a) 5. of the statutes, as
8 created by this act, and one member appointed under section 15.795 (2) (a) 6. of the
9 statutes, as created by this act, for terms expiring on May 1, 2006.

10 (d) One member appointed under section 15.795 (2) (a) 5. of the statutes, as
11 created by this act, and one member appointed under section 15.795 (2) (a) 6. of the
12 statutes, as created by this act, for terms expiring on May 1, 2007.

13 (3) POSITION AUTHORIZATION. There is authorized for the wireless 911 board 1.0
14 FTE PR position, to be funded from the appropriation under section 20.155 (3) (g) of
15 the statutes, as created by this act, for the purpose of providing administrative
16 services to the wireless 911 board.

17 (4) LEGISLATIVE INTENT. The treatment of sections 196.219 (3m) and (3s) and
18 196.37 (1) and (2) of the statutes is intended only to clarify the authority of the public
19 service commission. No substantive change is intended.

20 **SECTION 62. Initial applicability.**

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

24 (2) ENFORCEMENT AUTHORITY, PUBLIC SERVICE COMMISSION.

INSERT 35-16 ✓

BILL

1 (a) The treatment of sections 196.219 (4) (b) and (6), 196.499 (12) (am), and
2 196.66 (1) and (3) (b) (intro.) of the statutes first applies to violations occurring on
3 the effective date of this paragraph.

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

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

9 (END)

INSERT 36-8

INSERT 6A

2001 ASSEMBLY BILL 855

February 26, 2002 - Introduced by Representatives SCHOOFF, MUSSER, RYBA, PLALE and TURNER. Referred to Joint Committee on Information Policy and Technology.

1
2
3

AN ACT to amend 196.202 (2) and to create 196.202 (6) of the statutes; relating to: provision of telephone number portability by wireless telecommunications providers.

Analysis by the Legislative Reference Bureau

Under current federal law, with certain exceptions, telecommunications providers are required to provide number portability in the 100 largest metropolitan statistical areas (MSAs) of the country. "Number portability" is defined as the ability of a customer to retain existing telephone numbers at the same location when switching telecommunications providers. Milwaukee is the only area in Wisconsin that is in the 100 largest MSAs. Current federal law also requires, with certain exceptions, a telecommunications provider to provide number portability in an area outside the 100 largest MSAs within six months after another telecommunications provider requests number portability.

One of the exceptions to the above requirements applies to wireless telecommunications providers, which are referred to under federal and state law as commercial mobile radio service providers. Under current federal law, wireless telecommunications providers must begin providing number portability in the 100 largest MSAs by November 24, 2002. After that date, a wireless telecommunications provider must provide number portability in an area outside the 100 largest MSAs within the same six-month deadline described above.

Under this bill, a wireless telecommunications provider must begin providing number portability in all areas of the state on November 24, 2002. The duty applies

Wireless number portability
<sub sub>

[Handwritten signature]
BFD

-2-
INSERT 6A (Cont'd)

only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code. In addition, number portability must be provided in a manner that does not impair the quality or reliability of telecommunications services.

END OF INSERT 6A

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

1 **SECTION 1.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 196.202 (2) **SCOPE OF REGULATION.** A commercial mobile radio service provider
4 is not subject to ch. 201 or this chapter, except as provided in ~~sub.~~ subs. (5) and (6),
5 and except that a commercial mobile radio service provider is subject to s. 196.218
6 (3) if the commission promulgates rules that designate commercial mobile radio
7 service providers as eligible to receive universal service funding under both the
8 federal and state universal service fund programs. If the commission promulgates
9 such rules, a commercial mobile radio service provider shall respond, subject to the
10 protection of the commercial mobile radio service provider's competitive
11 information, to all reasonable requests for information about its operations in this
12 state from the commission necessary to administer the universal service fund.

13 **SECTION 2.** 196.202 (6) of the statutes is created to read:

14 196.202 (6) **NUMBER PORTABILITY.** (a) In this subsection, "number portability"
15 means the ability of a customer of a commercial mobile radio service provider who
16 switches service to another telecommunications provider in the same area code to
17 retain the telephone numbers that the customer used with that commercial mobile
18 radio service provider.

-2-
IN SEPT 21-11

only if a customer of a wireless telecommunications provider switches to another telecommunications provider in the same area code. In addition, number portability must be provided in a manner that does not impair the quality or reliability of telecommunications services.

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

SECTION 1. 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider is not subject to ch. 201 or this chapter, except as provided in sub- subs. (5) and (6), and except that a commercial mobile radio service provider is subject to s. 196.218 (3) if the commission promulgates rules that designate commercial mobile radio service providers as eligible to receive universal service funding under both the federal and state universal service fund programs. If the commission promulgates such rules, a commercial mobile radio service provider shall respond, subject to the protection of the commercial mobile radio service provider's competitive information, to all reasonable requests for information about its operations in this state from the commission necessary to administer the universal service fund.

SECTION 2. 196.202 (6) of the statutes is created to read:

196.202 (6) NUMBER PORTABILITY. (a) In this subsection, "number portability" means the ability of a customer of a commercial mobile radio service provider who switches service to another telecommunications provider in the same area code to retain the telephone numbers that the customer used with that commercial mobile radio service provider.



3

INSERT 21-11 (Cont'd):

1 (b) Each commercial mobile radio service provider shall provide number
2 portability in all areas of the state in a manner that does not impair the quality or
3 reliability of telecommunications services.

END of INSERT 21-11

4 **SECTION 3. Effective date.**

5 (1) This act takes effect on November 24, 2002.

6 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4955/3ins
MDK:.....

1

2

INSERT 2A:

allowing adjustments in telecommunications utility rates for expenses in supporting wireless 911 emergency telephone service; requiring wireless number portability;

3

INSERT 2B:

; allowing for adjustments in incentive-regulated telecommunication utility rates; requesting the joint legislative council to study retail and wholesale telecommunications services;

4

INSERT 2C:

2) restricts telecommunications providers in initiating service and applying laws of other states to contracts; 3) restricts telecommunications providers in billing other services; 4) requires wireless telephone number portability;

5

INSERT 3A:

Finally, the bill allows a price-regulated telecommunications utility, subject to the PSC's approval, to adjust its rates for the purpose of recovering the utility's expenses incurred exclusively in supporting the provision of 911 emergency services for wireless telephone users under the FCC's orders.

6

INSERT 7A:

of the Public
Service Commission
(PSC)

3. The bill allows the PSC to approve basic local exchange rates of a telecommunications utility subject to incentive regulation that match a competitor's rates, even if the result is that the utility's rates do not exceed its total service long-run incremental costs. Under current law, a telecommunications utility's rates must exceed such costs, unless other exceptions apply.

4. The bill request the joint legislative council to study the appropriate level of regulation of retail and wholesale telecommunications services, the quality of such services, and related enforcement issues, with a focus on making the transition toward deregulated markets for such services. If the council undertakes such a study, the bill requires the council to submit a report to the 2003 legislature when it convenes.

7

INSERT 18-7:

8

SECTION 1. 196.195 (12) (a) of the statutes is amended to read:

9

196.195 (12) (a) To provide incentives for telecommunications utilities to

10

achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of

11

the provisions listed in sub. (5) except ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37,

1 196.60 and 196.604, may grant an approval under par. (f), or may approve a
2 regulatory method alternative to traditional rate-of-return regulation that does not
3 require suspension of any provisions listed in sub. (5).

4 History: 1985 a. 297; 1987 a. 403 s. 256; 1993 a. 496; 1997 ~~l. 110~~; 1999 a. 150; 2001 a. 16.

SECTION 2. 196.195 (12) (f) of the statutes is created to read:

5 196.195 (12) (f) Notwithstanding pars. (d) 2. and (e) and s. 196.204 (5) (a) and
6 (6) (b) 2., the commission may approve the provision of basic local exchange service
7 by a telecommunications utility that is subject to this subsection at rates that match
8 a competitor's rates for such service.

SECTION 3. 196.196 (1) (em) of the statutes is created to read:

10 196.196 (1) (em) Notwithstanding pars. (c), (d), and (e), a price-regulated
11 telecommunications utility may, subject to the approval of the commission, adjust its
12 rates for the purpose of recovering the utility's expenses incurred exclusively in
13 supporting the provision of 911 emergency services for wireless telephone users
14 under the federal wireless orders, as defined in s. 146.70 (3m) (a) 2.

SECTION 4. 196.196 (1) (g) 1. (intro.) of the statutes is amended to read:

16 196.196 (1) (g) 1. (intro.) Five years after a telecommunications utility elects
17 to become a price-regulated telecommunications utility or, if subd. 4. applies, within
18 the dates specified in that subdivision, the commission shall hold a hearing, and at
19 any time thereafter, upon complaint or on the commission's own motion, the
20 commission may hold a hearing, to determine whether it is in the public interest to
21 suspend one or more of the provisions of this subsection, except par. (em), as it applies
22 to a price-regulated telecommunications utility or to approve an alternative

1 regulatory method for that utility. In making a determination under this
2 subdivision, the commission shall identify all of the following:

3 History: 1993 a. 496; 1999 a. 29, 85; 2001 a. 16.

4 **INSERT 21-8:**

5 **SECTION 5.** 196.202 (2) (intro.) of the statutes, as affected by 2001 Wisconsin

6 Act... (this act), is repealed and recreated to read:

7 196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service

8 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5)

9 and (6) and except as follows:

10 **INSERT 35-16:**

11 ~~(4)~~ STUDY OF RETAIL AND WHOLESALE TELECOMMUNICATIONS SERVICE. The joint
12 legislative council is requested to study the appropriate level of regulation of retail
13 and wholesale telecommunications services, the quality of such services, and related
14 enforcement issues, with a focus on making the transition toward deregulated
15 markets for such services. If the council undertakes such a study, the council shall
16 report its findings, conclusions, and recommendations to the 2003 legislature when
17 it convenes.

18 **INSERT 36-8:**

19 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
20 except as follows:

21 (1) NUMBER PORTABILITY. The repeal and recreation of section 196.202 (2) (intro.)
22 and the treatment of section 196.202 (6) of the statutes take effect on November 24,
2002.

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