

**2001 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB889)**

Received: 03/03/2002

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Rose**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **John Stolzenberg**

Addl. Drafters:

Subject: **Trade Regulation - other  
Public Util. - telco**

Extra Copies: **RPN, MGG, RTK**

Submit via email: **YES**

Requester's email: **Rep.Montgomery@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Assembly task force on telecommunications

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 03/04/2002	csicilia 03/04/2002		_____			
/1			jfrantze 03/04/2002	_____	lrb_docadmin 03/04/2002	lrb_docadmin 03/15/2002	

03/15/2002 10:04:33 AM

Page 2

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**LRBs0349**

FE Sent For:

<END>

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/?	kunkemd 03/04/2002	csicilia 03/04/2002		_____			
/1			jfrantze 03/04/2002	_____	lrb_docadmin 03/04/2002		

03/04/2002 12:20:29 PM

Page 2

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Submit via email: **YES**

*Also Email to:*  
*- Rose Smyrski's with  
she's with  
(Rep. Montgomery's  
office)*

Requester's email: **Rep.Montgomery@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

*- Don Nelson (he's with  
Rep. Pettis's office)*

**Topic:**

Assembly task force on telecommunications

*- John Stolzenberg  
(Leg. Council)*

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd	1 9/5 3/4 8/2	3/2	<i>[Signature]</i> 2			

FE Sent For:

<END>

**Kunkel, Mark**

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**From:** Kunkel, Mark  
**Sent:** Sunday, March 03, 2002 12:31 PM  
**To:** Stolzenberg, John  
**Subject:** 2 questions

John:

I thought I had all the info I needed for the Assembly and Senate subs., but I have 2 questions:

1. Does the requirement for a Leg. Council study of cross subsidization with the goal of promoting competition for telecommunications service in rural markets go into the Assembly or Senate version? Despite what I said on my voice mail, I now think it goes in the Assembly version. Correct me if I'm wrong.
2. Does the wireless 911 board get attached to the department of commerce or the PSC? It seems to have flip flopped back and forth, and I'm not sure where it ended up.

Thanx,

---

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

*- check MS 1/3 RC*

**Kunkel, Mark**

From: Nelson, Don  
Sent: Friday, March 01, 2002 10:51 AM  
To: Stolzenberg, John; Smyrski, Rose; Kunkel, Mark  
Subject: amendment to AB 875

889



03310001.pdf

I have attached some suggested drafting language for an amendment, however, we need clarification on the impact of the suggested changes. Included the suggested changes, Rep. Pettis/Montgomery have already agreed to get an opinion for ya'll and make the change if appropriate. One of the suggested changes was in section 19, changing the 5 years requirement to 2 years. We want to keep it at 5 years, everything else in their suggestions we are open to and want to make them.

Other changes we are looking for is the movement of oversight in the 911 issue from the PSC to the Dept. of Commerce. The final issue is the number portability section. We simply want this language to mirror the FCC rule. The concern here is an expansion of authority by the state. Essentially, the wireless folks do not want to see the state have tougher standards than the FCC and we agree, to a point. They brought up an issue of the effective date of the FCC order, Sept. 2002. The wireless folks state that the date may get pushed out to 2004 and they would rather not have the state have it in effect in 2002 if the new date is 2004. We are not too interested in writing legislation on a what if scenario, however, if there is a way to do this without usurping the legislature's authority, then we would be open to suggestions. One final area we would like to read on in the number portability area is whether the state has the authority to even to do since the FCC is already doing this.

Thanks for your help. We are striving for an executive session next week sometime on this bill and would like to have an amendment out as soon as possible.

Don

- changes in attachment are okay - per MGG § 87A

✓ - p. 13 line 21 - delete "Wisconsin"

✓ - Number portability - limit to FCC - ~~delete~~

- section 17

- Section 18 - OK<sup>1</sup> after us? the org. with the  
- section 20 - delete - users a problem

SECTION 9. 93.14(1m) of the statutes is created to read: *OK*

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

(b) The department's jurisdiction may not exceed the jurisdiction granted to courts under s. 801.05815.05.<sup>1</sup>

SECTION 15. 100.207(1)(c) of the statutes is created to read: *OK*

100.2097(1)(c) "Telecommunications subscription" means a contract between a telecommunications provider and a customer for a telecommunications service that is ~~always~~ provided to a customer during each billing period.<sup>2</sup>

SECTION 16. 100.207(3g) of the statutes is created to read: *OK*

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

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

<sup>1</sup> Previous discussions indicated that the intent was to give the department the same jurisdiction as that of a court under the "long arm statute." The correct citation for the "long arm statute" is substituted for s. 815.05.

<sup>2</sup> The word "always" is confusing. The statute seems much clearer without it.

<sup>3</sup> This change clarifies that providers are responsible for confirming consent only for services provided by them. This change would make it possible for telecommunications utilities to honor billing contracts with small rural phone companies like Mt. Horeb and with long distance carriers. Also, federal law does not allow incumbent local exchange carriers to ask customers whether they consented to have long distance service changed from one provider to another. Finally, no telecommunications provider could feasibly confirm that every customer who uses a "900" number or similar service provided by another carrier actually consented to the service.

*go  
w/  
DATA  
TCP  
language*



*change to Rules*

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

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

1. The telecommunications provider shall distinguish the billing for the other goods or services from the billing for the telecommunications service in a conspicuous manner ~~approved~~ by the department.<sup>4</sup>

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

SECTION 19. 100.207(5m) of the statutes is created to read:

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

*Repeat 5*

SECTION 25. 196.196(1)(em) of the statutes is created to read:

196.196(1)(em) Notwithstanding pars. (c), (d), and (e), a price-regulated telecommunications utility may, subject to the approval of the commission, 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 federal wireless orders, as defined in s. 146.70(3m)(a)2., to the extent such expenses are not otherwise recovered under 911

<sup>4</sup> As initially written, this section could be interpreted to require department approval every time a provider undertakes a format change in its bills. This requirement would lead to increased administration and costs for the department. The conspicuous disclosure requirement, together with the department's increased investigative authority under this bill, will incent providers to follow the law.

<sup>5</sup> Many telecommunications providers keep such records only for approximately 1 – 2 years because of the costs of data and record retention. The 5-year requirement would result in a several-fold increase in those costs.

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emergency tariffs, agreements with wireless providers, or agreements with wireless public safety answering points.<sup>6</sup>

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<sup>6</sup> Telecommunications utilities generally recover these expenses through existing emergency 911 tariffs and agreements with wireless providers and wireless public safety answering points. This change retains these as the first line of expense recovery instead of shifting these expenses to the ratepayers.

## Kunkel, Mark

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**From:** Nelson, Don  
**Sent:** Friday, March 01, 2002 3:37 PM  
**To:** Kunkel, Mark  
**Subject:** FW: Proposed amendment to AB 875

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

**From:** Stolzenberg, John  
**Sent:** Friday, March 01, 2002 3:33 PM  
**To:** Nelson, Don  
**Cc:** Smyrski, Rose  
**Subject:** FW: Proposed amendment to AB 875

Don,

This note was meant for you. I need to correct my personal e-mail directory because I presently have 2 Nelson's in it....

John

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

**From:** Stolzenberg, John  
**Sent:** Friday, March 01, 2002 3:29 PM  
**To:** Nelson, Paul \*PSC; Smyrski, Rose  
**Subject:** FW: Proposed amendment to AB 875

Don and rose,

Here's the response I got from Dave Ghilardi, a DATCP attorney, on the consumer protection provisions in AB 875.

John

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

**From:** Ghilardi, David J DATCP  
**Sent:** Friday, March 01, 2002 3:05 PM  
**To:** Stolzenberg, John  
**Cc:** Matson, James K DATCP; Rabbitt, Jim L DATCP; Lovell, David; Schmidt, Dan; Offerdahl, Mary  
**Subject:** RE: Proposed amendment to AB 875

Jon - The PDF file you sent me is read only, so I offer my comments as follows. David Lovell has suggested that I cc this to the other members of your team to save you the effort. Please call at 224-5030 with questions:

Section 9 - Good change.

Section 15 - This makes no sense unless you add the words "on a continuing or periodic basis" to the end of the sentence. See Wis. Adm. Code s. ATCP 123.01(13).

Section 16 - This change results in a law that has nothing to do with the consumer protection we are trying to provide. What we want to deal with here is where the telecom acts as a billing agent for non-telecom goods or services - where a telecom bills for a non-telecommunications good or service regardless of who provided or sold it. This change creates a section that has nothing to do with this intent. The concerns expressed by the industry about "900" numbers and small rural phone companies should not apply because these are telecommunications services that should be exempted. Let me propose this language:

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

[ we approve striking "approved by the department" as explained in footnote 4.]

Section 19 - As I explained, the statute of limitations is 10 years. By creating a law approving 2 years, you are not providing consumer protection but instead weakening consumer rights. When we proposed a full 10 years, we knew what the industry practices are. A two year period is the problem we are trying to get at. Our investigations often look at activities beyond two years, and the industry simply tells us they no longer have the records we need to prove the consumer's case. By making a law that says 2 years, you are codifying the very problem we are seeking to avoid. If you can't put at least 5 years in there (I personally believe it should be 10), then it is much better for consumers to not have this in the bill at all.

*The following comments refer to LRB-4955/3*

Section 17 - This is the section that is apparently intended to deal with the way telecom's verify customer orders for telecommunications services that they provide. As I testified yesterday, this applies to one time only orders for service (not subscription services). There are some complications here with "dial around long distance services" that is not a problem we are trying to address here. In fact, we are trying to address problems strictly related to "new" services, such as call waiting, 3-way calling, and repeat dialing. We can tighten this up to avoid problems by either excluding "basic local exchange service" (defined in Wis. Stats. ss. 196.01 (1g)) and "long distance toll service" (see Wis. Stats. ss. 196.01 (1j)); or by limiting the applications to "new services" (as the concept exists in Wis. Stats. s. 196.196 (3)(a)).

Since "new services" is not so well defined, I propose the following. I don't think we have to define either of these phrases since they are fairly well-established in the industry:

100.207 (3m)

(b) Paragraph (a) does not apply to a basic local exchange service, long distance toll service, or a telecommunications service that is provided as part of a telecommunications subscription.

Section 18 - The industry discussed with me the situation where the laws of Wisconsin do not cover an area in the service agreement and the telecom wants to then go to the laws of another state as the terms for this part of the service agreement. This is not a problem for us. So I propose the following:

✓ 100.207(5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider may place in a contract entered into with a customer located in this state a clause that provides that a law of a state other than this state ~~is~~ <sup>(then)</sup> ~~inconsistent with a law of this state~~ applies to the parties or terms of the contract or rights and remedies under the contract. *unless the law of the other state is in conformity with the law of this state.*

Section 20 - This section must be deleted. If it goes into the law, it will negatively affect consumer rights by suggesting that, in the other consumer protection areas where this authority is not similarly codified, the right doesn't exist. As I explained yesterday to the committee, although we feel this right does generally exist, we ask the legislature to make it even more obvious to avoid stone-walling by out of state companies. But we need to do it generally, the problem is not specific to telecommunications. This is why I recommended putting the long-arm investigation authority into ch. 93, so it applies generally. Please make sure (5g) is omitted.

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

**From:** Stolzenberg, John  
**Sent:** Friday, March 01, 2002 12:01 PM  
**To:** Rabbitt, Jim L DATCP; Ghilardi, David J DATCP  
**Subject:** Proposed amendment to AB 875

Dave and Jim,

Could one of you give me a call as soon as possible with your comments on the proposed amendment to SEC 16 in AB 875 [LRB-4955/3] in the attached PDF file.

Thanks.

John

<< File: 03310001.pdf >>

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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

O-NOTE

ASA to

STATS

S 0349/11

RM NOT RUN

Today by noon

# 2001 ASSEMBLY BILL 889

March 4, 2002 - Introduced by Representatives MONTGOMERY and PETTIS. Referred to Committee on Information Policy and Technology.

Repeal cat

1 AN ACT to renumber and amend 100.207 (1), 196.202 (2) and 196.50 (4); to

2 amend 15.795 (title), 93.14 (3), 93.15 (1), 93.15 (2), 196.195 (12) (a), 196.196 (1)

3 (g) 1. (intro.), 196.499 (1) (b), 196.50 (4) (title), 198.12 (6) and 198.22 (6); to

4 repeal and recreate 196.202 (2) (intro.); and to create 15.795 (2), 20.155 (3)

5 (title), 20.155 (3) (g), 20.155 (3) (h), 20.155 (3) (i), 20.155 (3) (k), 93.01 (1r), 93.14

6 (1m), 100.207 (1) (a), 100.207 (1) (c), 100.207 (3g), 100.207 (3m), 100.207 (5g),

7 100.207 (5m), 100.207 (6) (br), 146.70 (3m), 196.02 (13), 196.195 (12) (f), 196.196

8 (1) (em), 196.196 (5) (f) 1. g., 196.196 (5) (f) 4., 196.202 (2) (b), 196.202 (6), 196.50

9 (4) (a) and 196.50 (4) (c) of the statutes; relating to: creating a wireless 911

10 board; imposing a surcharge on wireless telephone customers; making grants

11 for wireless 911 emergency telephone service; allowing adjustments in

12 telecommunications utility rates for expenses in supporting wireless 911

13 emergency telephone service; requiring wireless number portability;

14 jurisdictional and enforcement authority of the department of agriculture,

**ASSEMBLY BILL 889**

1 trade and consumer protection; construction and ownership of  
2 telecommunications facilities by local units of government; services provided by  
3 telecommunications providers; authority of the public service commission  
4 regarding area codes and telephone numbers; allowing for adjustments in  
5 incentive-regulated telecommunication utility rates; requesting the joint  
6 legislative council to study retail and wholesale telecommunications services;  
7 granting rule-making authority; and making appropriations.

*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) restricts ownership or construction of telecommunications facilities by local units of government; 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; 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 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

**ASSEMBLY BILL 889**

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.

Finally, the bill allows a price-regulated telecommunications utility, subject to approval of the Public Service Commission (PSC), 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.

***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



**ASSEMBLY BILL 889**

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 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.

***Wireless number portability***

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.

**ASSEMBLY BILL 889**

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 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.

**Other changes**

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

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.

2. 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.

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.

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

keep

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

SECTION 1. 15.795 (title) of the statutes is amended to read:

1 ~~15.795 (title) Same; attached board and office.~~

2 SECTION 2. ~~15.795 (2)~~ <sup>15.155 (5)</sup> of the statutes is created to read:

9  
15.155  
(5)  
B

3 ~~15.795 (2)~~ WIRELESS 911 BOARD. (a) There is created a wireless 911 board  
4 attached to the ~~public service commission~~ <sup>department of commerce</sup> under s. 15.03 consisting of the following  
5 members:

6 1. One representative to the assembly, appointed by the speaker of the  
7 assembly.

8 2. One representative to the assembly, appointed by the assembly minority  
9 leader.

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

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

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

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

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

20 ~~SECTION 3. 20.155 (3) (title) of the statutes is created to read:~~

21 ~~20.155 (3) (title) WIRELESS 911 BOARD.~~

20.143 (3) (je)

22 SECTION 4. ~~20.143 (3) (g)~~ of the statutes is created to read:

23 ~~20.155 (3) (g)~~ *General program operations.* Two and one-half percent of all  
24 moneys received under s. 146.70 (3m) (d) 3. for general program operations of the  
25 wireless 911 board, including contracting for audits under s. 146.70 (3m) (b) 5.

9 20.143 (3) (je)  
B

Wireless 911 board ← (tal)

ASSEMBLY BILL 889

A 20.143 (3) (jm)

20.143 (3) (jm)

1 SECTION 5. ~~20.155 (3) (a)~~ of the statutes is created to read:

2 ~~20.155 (3) (a)~~ *Wireless provider grants.* Forty-eight and three-fourths percent  
3 of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board to make  
4 grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers to the  
5 appropriation under par. <sup>kv</sup> (k) as provided under s. 146.70 (3m) (b) 3.

6 SECTION 6. ~~20.155 (3) (i)~~ of the statutes is created to read:

A 20.143 (3) (js)

20.143 (3) (js)

7 ~~20.155 (3) (i)~~ *Public agency and wireless provider grants.* Forty-eight and  
8 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the  
9 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and  
10 to wireless providers under s. 146.70 (3m) (b) 3.

11 SECTION 7. ~~20.155 (3) (k)~~ of the statutes is created to read:

A 20.143 (3) (kv)

20.143 (3) (kv)

12 ~~20.155 (3) (k)~~ *Public agency grants.* All moneys transferred from the  
13 appropriation account under par. <sup>jm</sup> (k) for the wireless 911 board to make grants to  
14 public agencies under s. 146.70 (3m) (b) 1.

15 SECTION 8. 93.01 (1r) of the statutes is created to read:

16 93.01 (1r) "Civil investigative demand" means a written document prepared  
17 by the department that is related to the enforcement of chs. 93 to 100 and that orders  
18 a person to do any of the following:

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

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

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

25 SECTION 9. 93.14 (1m) of the statutes is created to read:

## ASSEMBLY BILL 889

## SECTION 9

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

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

6           **SECTION 10.** 93.14 (3) of the statutes is amended to read:

7           93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to  
8 comply with a subpoena, order, or civil investigative demand, or refuse to testify may  
9 be coerced as provided in s. 885.12.

10          **SECTION 11.** 93.15 (1) of the statutes is amended to read:

11          93.15 (1) The department may, by general or special order, require persons  
12 engaged in business to file with the department, at such time and in such manner  
13 as the department may direct, sworn or unsworn reports or sworn or unsworn  
14 answers in writing to specific questions, as to any matter which the department may  
15 investigate.

16          **SECTION 12.** 93.15 (2) of the statutes is amended to read:

17          93.15 (2) The department or any of its authorized agents may have access to  
18 and may copy any document, or any part thereof, which of a document, that is in the  
19 possession or under the control of any person engaged in business, if such the  
20 document, or such part thereof of the document, is relevant to any matter which that  
21 the department may investigate.

22          **SECTION 13.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and  
23 amended to read:

24          100.207 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,  
25 ~~“telecommunications;~~

## ASSEMBLY BILL 889

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

2           **SECTION 14.** 100.207 (1) (a) of the statutes is created to read:

3           100.207 (1) (a) "Telecommunications provider" has the meaning given in s.  
4           196.01 (8p).

5           **SECTION 15.** 100.207 (1) (c) of the statutes is created to read:

6           100.207 (1) (c) "Telecommunications subscription" means a contract between  
7           a telecommunications provider and a customer for a telecommunications service that  
8           is always provided to the customer during each billing period.

9           **SECTION 16.** 100.207 (3g) of the statutes is created to read:

10          100.207 (3g) BILLING FOR OTHER SERVICES. (a) A telecommunications provider  
11          may not bill a customer for any goods or services, other than telecommunications  
12          service, ~~provided by the telecommunications provider,~~ unless all of the following  
13          apply:

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

16           2. The telecommunications provider confirms with the customer, before  
17          providing the telecommunications service, that the customer knowingly consented  
18          to the billing.

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

21           1. The telecommunications provider shall distinguish the billing for the other  
22          goods or services from the billing for the telecommunications service in a conspicuous  
23          manner approved by the department. INSERT 9-23 ✓

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

1 SECTION 17. 100.207 (3m) of the statutes is created to read:

2 100.207 (3m) TELECOMMUNICATIONS SERVICE CONFIRMATION. (a) A  
3 telecommunications provider may not provide a telecommunications service to a  
4 customer unless all of the following apply:

5 1. The telecommunications provider reasonably believes that the customer  
6 knowingly consented to receive the service.

7 2. The telecommunications provider confirms with the customer, before  
8 providing the telecommunications service, that the customer knowingly consented  
9 to receive the service.

*unless the law of the other state is in conformity  
with the law of this state*

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

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

16 SECTION 18. 100.207 (5g) of the statutes is created to read:

17 100.207 (5g) RESTRICTIONS ON CONTRACTS. No telecommunications provider  
18 may place in a contract entered into with a customer located in this state a clause that  
19 provides that a law of a state other than this state applies to the parties or terms of  
20 the contract or the rights and remedies under the contract.

21 SECTION 19. 100.207 (5m) of the statutes is created to read:

22 100.207 (5m) RECORD REQUIREMENTS. Any person who provides  
23 telecommunications service to any customer in this state shall maintain each billing  
24 and collection record that is made in providing the telecommunications service for  
25 a period of 5 years beginning on the date that the record is made.

*basic local exchange service or long distance  
full service or*

ASSEMBLY BILL 889

1 SECTION 20. 100.207 (6) (br) of the statutes is created to read:

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

6 SECTION 21. 146.70 (3m) of the statutes is created to read:

7 146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

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

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

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

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

20.143(3)(js) and (kv)

19 (b) *Grants.* 1. From the appropriations under s. ~~20.143(3)(js) and (kv)~~ the board  
20 shall make grants to public agencies that operate public safety answering points for  
21 eligible expenses under par. (c). A public agency is eligible for a grant under this  
22 subdivision only if the board determines that the public agency is providing, or has  
23 begun to implement, 911 emergency services for wireless telephone users and has  
24 complied with the federal wireless orders. The total amount in grants that a public



**ASSEMBLY BILL 889**

**SECTION 21**

1 agency may receive under this subdivision may not exceed 50% of the public agency's  
2 total eligible expenses under par. (c). ✓

3 2. From the appropriation under s. ~~20.155(3)(m)~~ <sup>20.143(3)(jm)</sup>, the board shall make grants  
4 to wireless providers for actual expenses incurred by wireless providers to upgrade,  
5 purchase, lease, program, install, test, operate, or maintain all data, hardware, and  
6 software necessary to comply with the federal wireless orders.

7 3. If the board determines that there are insufficient funds in the appropriation  
8 account under s. ~~20.155(3)(m)~~ <sup>20.143(3)(jm)</sup> to make a grant under subd. 2., and the board has not  
9 paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3  
10 months, the board may make the grant to the wireless provider from the

11 appropriation account under s. ~~20.155(3)(m)~~ <sup>20.143(3)(js)</sup> If the board makes a grant under this  
12 subdivision, the board shall, as soon as practicable, transfer moneys from the  
13 appropriation account under s. ~~20.155(3)(m)~~ <sup>20.143(3)(jm)</sup> to the appropriation account under s.  
14 ~~20.155(3)(m)~~ <sup>20.143(3)(kv)</sup> in an amount equal to the amount of the grant. ✓

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

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

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

## ASSEMBLY BILL 889

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

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

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

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

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

12 b. Vehicles and equipment in vehicles.

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

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

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

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

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

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

10          4. Wireless providers may retain 2% of the surcharges collected in fiscal year  
11 2002–03 for reimbursing costs related to collecting the surcharge, including  
12 reprogramming billing systems.

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

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

**ASSEMBLY BILL 889**

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

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

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

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

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

16           **SECTION 22.** 196.02 (13) of the statutes is created to read:

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

24           **SECTION 23.** 196.195 (12) (a) of the statutes is amended to read:

1           196.195 (12) (a) To provide incentives for telecommunications utilities to  
2 achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of  
3 the provisions listed in sub. (5) except ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37,  
4 196.60 and 196.604, may grant an approval under par. (f), or may approve a  
5 regulatory method alternative to traditional rate-of-return regulation that does not  
6 require suspension of any provisions listed in sub. (5).

7           **SECTION 24.** 196.195 (12) (f) of the statutes is created to read:

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

12           **SECTION 25.** 196.196 (1) (em) of the statutes is created to read:

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

18           **SECTION 26.** 196.196 (1) (g) 1. (intro.) of the statutes is amended to read:

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

## ASSEMBLY BILL 889

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

3 SECTION 27. 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 28. 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 29. 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,  
14 is renumbered 196.202 (2) (intro.) and amended to read:

15 196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service  
16 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and  
17 except that ~~a~~ as follows:

18 (a) A commercial mobile radio service provider is subject to s. 196.218 (3) if the  
19 commission promulgates rules that designate commercial mobile radio service  
20 providers as eligible to receive universal service funding under both the federal and  
21 state universal service fund programs. If the commission promulgates such rules,  
22 a commercial mobile radio service provider shall respond, subject to the protection  
23 of the commercial mobile radio service provider's competitive information, to all  
24 reasonable requests for information about its operations in this state from the  
25 commission necessary to administer the universal service fund.

**ASSEMBLY BILL 889**

**SECTION 30**

1           **SECTION 30.** 196.202 (2) (intro.) of the statutes, as affected by 2001 Wisconsin  
2 Act ... (this act), is repealed and recreated to read:

3           **196.202 (2) SCOPE OF REGULATION.** (intro.) A commercial mobile radio service  
4 provider is not subject to ch. 201 or this chapter, except as provided in subs. (5) and  
5 (6), and except as follows:

6           **SECTION 31.** 196.202 (2) (b) of the statutes is created to read:

7           **196.202 (2) (b)** A commercial mobile radio service provider is subject to ss.  
8 196.02 (13) and 196.196 (5) (f) 4.

INSERT 18-10 ✓

9           **SECTION 32.** 196.202 (6) of the statutes is created to read:

10           **196.202 (6) NUMBER PORTABILITY.** (a) In this subsection, "number portability"  
11 means the ability of a customer of a commercial mobile radio service provider who  
12 switches service to another telecommunications provider in the same area code to  
13 retain the telephone numbers that the customer used with that commercial mobile  
14 radio service provider.

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

18           **SECTION 33.** 196.499 (1) (b) of the statutes is amended to read:

19           **196.499 (1) (b)** A telecommunications carrier shall be treated under ss. 196.02  
20 (13), 196.196 (5) (f) 4., 196.209, 196.218 (8) and 196.219 as a telecommunications  
21 provider.

22           **SECTION 34.** 196.50 (4) (title) of the statutes is amended to read:

23           **196.50 (4) (title)** ~~MUNICIPALITY~~ LOCAL GOVERNMENTAL UNITS AND MUNICIPALITIES  
24 RESTRAINED.

## ASSEMBLY BILL 889

1           **SECTION 35.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and  
2 amended to read:

3           196.50 (4) (b) No municipality may construct any public utility if there is in  
4 operation under an indeterminate permit in the municipality a public utility  
5 engaged in similar service ~~other than a telecommunications service~~, unless it secures  
6 from the commission a declaration, after a public hearing of all parties interested,  
7 that public convenience and necessity require the municipal public utility and unless  
8 the requirements of par. (c) are satisfied.

9           **SECTION 36.** 196.50 (4) (a) of the statutes is created to read:

10          196.50 (4) (a) In this subsection:

11          1. “Local governmental unit” means a town, village, city, county, or special  
12 purpose district, a subunit of a town, village, city, county, or special purpose district,  
13 or any combination of a town, village, city, county, special purpose district, or such  
14 a subunit.

15          2. “State agency” means any office, department, independent agency,  
16 institution of higher education, association, society, or other body in state  
17 government created or authorized to be created by the constitution or any law,  
18 including the legislature and courts.

19          3. “Telecommunications facility” means any plant or equipment used to provide  
20 a telecommunications service to the public by wire, fiber optics, radio signal, or other  
21 means.

22          **SECTION 37.** 196.50 (4) (c) of the statutes is created to read:

23          196.50 (4) (c) 1. Except as provided in subd. 2., a local governmental unit may  
24 not construct or own a telecommunications facility, unless all of the following are  
25 satisfied:



**ASSEMBLY BILL 889****SECTION 37**

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

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

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

1           d. Any other requirement established in rules promulgated by the commission  
2 under subd. 3.

3           2. a. Subdivision 1. does not apply to a telecommunications facility that is  
4 owned, or for which a financial institution has agreed in writing to finance, in whole  
5 or in part, the cost of construction or ownership, before the effective date of this  
6 subdivision .... [revisor inserts date]. This subdivision paragraph does not apply 5  
7 years after the effective date of this subdivision paragraph .... [revisor inserts date].

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

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

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

23           b. That construction and operation of the telecommunications facility must be  
24 subject to the same requirements, fees, and penalties relating to the use of public

1 rights-of-way that apply to a telecommunications facility that is not owned or  
2 controlled by a local unit of government.

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

5 **SECTION 38.** 198.12 (6) of the statutes is amended to read:

6 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF  
7 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire  
8 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to  
9 construct any utility or portion thereof to operate, in whole or in part, in the district,  
10 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where  
11 applicable, to construct any addition to or extension of any such utility, and to own,  
12 acquire and construct any water power and hydroelectric power plant, within or  
13 without the district, to be operated in connection with any such utility, and to  
14 operate, maintain and conduct such utility and water power and hydroelectric power  
15 plant and system both within and without the district, and to furnish, deliver and  
16 sell to the public and to any municipality and to the state and any state institution  
17 heat, light and power service and any other service, commodity or facility which may  
18 be produced or furnished thereby, and to charge and collect rates, tolls and charges  
19 for the same. For said purposes the district is granted and shall have and exercise  
20 the right freely to use and occupy any public highway, street, way or place reasonably  
21 necessary to be used or occupied for the maintenance and operation of such utility  
22 or any part thereof, subject, however, to such local police regulations as may be  
23 imposed by any ordinance adopted by the governing body of the municipality in  
24 which such highway, street, way or place is located.

25 **SECTION 39.** 198.22 (6) of the statutes is amended to read:

## ASSEMBLY BILL 889

1           198.22 (6) ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF  
2           STREETS. The district shall have power and authority to own, acquire, and, subject  
3           to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any  
4           water utility or portion thereof, to operate, in whole or in part, in the district and to  
5           construct any addition or extension to any such utility. For such purpose the district  
6           is granted and shall have and exercise the right freely to use and occupy any public  
7           highway, street, way or place reasonably necessary to be used or occupied for the  
8           construction, operation or maintenance of such utility or any part thereof, subject,  
9           however, to the obligation of the district to replace said grounds in the same condition  
10          as they previously were in.

11           **SECTION 40. Nonstatutory provisions.**

12          (1) WIRELESS 911 SURCHARGE RULES.

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

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

24          (c) ~~Public service commission~~ *Department of commerce* <sup>itd</sup> rules. Notwithstanding section 146.70 (3m) (d)

25          3. of the statutes, as created by this act, if all of the members of the board are not

*use twice?*

SECTION 40

*department of commerce*

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

10 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section ~~15.155(2)~~  
11 (b) of the statutes, as created by this act, the initial members of the wireless 911 board  
12 under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 5. and 6. of the statutes, as created by this act, shall be  
13 appointed to serve the following terms:

14 (a) One member appointed under section ~~15.155(2)~~ (a) 5. of the statutes, as  
15 created by this act, and one member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 6. of the  
16 statutes, as created by this act, for terms expiring on May 1, 2004.

17 (b) One member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 5. of the statutes, as  
18 created by this act, and one member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 6. of the  
19 statutes, as created by this act, for terms expiring on May 1, 2005.

20 (c) One member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 5. of the statutes, as  
21 created by this act, and one member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 6. of the  
22 statutes, as created by this act, for terms expiring on May 1, 2006.

23 (d) One member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 5. of the statutes, as  
24 created by this act, and one member appointed under section ~~15.155(2)~~ <sup>15.155(5)</sup> (a) 6. of the  
25 statutes, as created by this act, for terms expiring on May 1, 2007.

20.143(3)(e)

1 (3) POSITION AUTHORIZATION. There is authorized for the wireless 911 board 1.0  
2 FTE PR position, to be funded from the appropriation under section ~~20.153(3)(e)~~ of  
3 the statutes, as created by this act, for the purpose of providing administrative  
4 services to the wireless 911 board.

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

12 **SECTION 41. Initial applicability.**

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

16 **SECTION 42. Effective dates.** This act takes effect on the day after publication,  
17 except as follows:

18 (1) NUMBER PORTABILITY. The repeal and recreation of section 196.202 (2) (intro.)  
19 and the treatment of section 196.202 (6) of the statutes take effect on November 24,  
20 2002.

of the  
statute

21 (END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0349/lins  
MDK:.....

1

**INSERT 9-23:**

2

209

The department shall promulgate rules establishing requirements for complying  
with this subdivision.

3

4

**INSERT 18-10:**

5

209

A commercial mobile radio service provider that is subject to the requirements of 47  
CFR Part 52, Subpart C, shall provide number portability, as defined in 47 CFR  
52.21 (k), as required in 47 CFR Part 52, Subpart C.

6

7

21

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0349/1dn

MDK:.....

CJS

Representative Montgomery:

This substitute amendment is identical to the AB 889, except for the following:

1. The 911 wireless board is attached to the department of commerce, not the PSC. ✓
2. Proposed s. 100.207 (3g) (a) (intro.) is revised as suggested by DATCP.
3. DATCP must promulgate rules for distinguishing billed services under proposed s. 100.207 (3g) (b) 1.
4. Proposed s. 100.207 (3m) (b) is revised as suggested by DATCP. ✓
5. Proposed s. 100.207 (5g) is revised in manner slightly different than <sup>as that</sup> suggested by DATCP. ✓
6. Proposed s. 100.207 (6) (br) is eliminated. ✓
7. The surcharge must be identified as the "Wireless 911 Surcharge", not the "Wisconsin Wireless 911 Surcharge". See proposed s. 146.70 (3m) (d) 1. ✓
8. Proposed s. 196.196 (1) (em) is eliminated. ✓
9. Commercial mobile radio service providers (CMRSPs) must provide number portability as required under the FCC's regulations. See proposed s. 196.202 (6). Note that the reference to the Code of Federal Regulations is intended to incorporate any subsequent changes to the federal regulations, because it does not refer to a dated version of the federal regulations. Therefore, if the FCC amends the regulations to extend the deadline for compliance, the state law will refer to the amended regulations and the extended deadline. Note that it is uncertain whether the attorney general is authorized to enforce this provision. The attorney general is authorized to enforce requirements regarding telecommunications providers, such as CMRSPs, under s. ✓ 196.44 (2) (b), stats. However, s. 196.202 (2) (intro.) contains a general rule that CMRSPs are not subject to ch. 196, stats. As drafted, I'm not sure whether or not a court would conclude that the attorney general can enforce number portability. Please let me know if you want to resolve this uncertainty. Also note that the general forfeiture provisions of s. 196.66, stats., apply only to public utilities, and a CMRSP is not a public utility. Therefore, no forfeiture applies to a CMRSP's violation of the number portability requirements. ✓

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0349/1dn  
MDK:cjs:jf

March 4, 2002

Representative Montgomery:

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Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Monday, March 11, 2002 1:50 PM  
**To:** Nelson, Don  
**Subject:** LRBs0349/1 (attached - per your request)



01s0349/1



01s0349/1dn

Oked by MDK  
- see "Request  
Sheets"

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703