

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB1)

Received: **03/11/2002**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Renner**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters: **jkreye**

Subject: **Public Util. - telco
Tax - sales**

Extra Copies:

Submit via email: **NO**

Pre Topic:

LFB:.....Renner -

Topic:

Wireless 911 grants; mobile telecommunications services sales tax

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 03/12/2002	hhagen 03/12/2002		_____			
/1		hhagen 03/13/2002	rschluet 03/13/2002	_____	lrb_docadmin 03/13/2002		
/2			rschluet 03/13/2002	_____	lrb_docadmin 03/13/2002		
/3	kunkemd 03/13/2002	hhagen 03/13/2002	rschluet 03/13/2002	_____	lrb_docadmin 03/13/2002		

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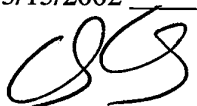
Instructions:

See Attached

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3-13-2<END>

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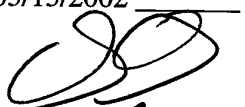
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3-B-2 <END>

2001 Jr2 DRAFTING REQUEST

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/?	kunkemd	lhmh 3/2		 KF			
			3-13-2				

FE Sent For:

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Send Monday

Passed

62441

Budget Amendments 2002

Legislation

Montgomery

Statement of Intent

LRB 0711 & 0349/1 combined with several modifications

Legislation

Legislation

Legislation

Legislation

Legislation

Rose Smyrski

↳ Ask her what modifications are

Legislation

Legislation

Legislation

Legislation

Legislation

Statement of Intent

Wireless related provisions -E911

Create wireless board with 12 members: who represent public agencies in public safety agencies; wireless companies (commercial mobile radio service providers); legislators

Board attached to Commerce

Allow wireless companies to add a surcharge on their phone bills, which must be identified as the "wireless 911 surcharge"

Make grants for wireless 911 emergency telephone service

Sunset 10 years

Modify the language as it relates to grants to wireless providers and public agencies

Modify language for wireless eligible expenses

Create customer remedy language

↳ 2664 LRB a 0711/1

Local Impact

Staff Analysis

Request #

272

Post-it® Fax Note	7671	Date	# of pages ▶ 19
To	Mark Kunkel	From	Darin Renner
Co./Dept.	LRB	Co.	LFB
Phone #		Phone #	
Fax #		Fax #	

Talk to Mike Heifetz or Michelle in Fotis office 6-2401

Mark: Include DOR changes written on the LRB a 0711/1 draft and written changes to LRBs 0349/1

*JS
70*

2001 - 2002 LEGISLATURE

LRB-3591/2

JK:kmg:jf

2001 SENATE BILL 260

October 2, 2001 - Introduced by Senator JAUCH, cosponsored by Representatives M. LEHMAN, AINSWORTH, JESKEWITZ, LIPPERT, MEYERHOFER, MUSSER, OLSEN and STONE. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to renumber and amend 77.52 (2) (a) 5.; to amend 77.52 (3m) (intro.),**
2 **77.525 and 77.72 (3) (b); and to create 77.52 (2) (a) 5. b., 77.52 (3n) and 77.54**
3 **(46m) of the statutes; relating to: the sales tax imposed on the sale of mobile**
4 **telecommunications services.**

Analysis by the Legislative Reference Bureau

Under current law, the sale of a mobile telecommunications service is subject to the sales tax if, generally, the service either originates or terminates in this state. Under this bill, for customer bills issued after August 1, 2002, the sale of a mobile telecommunications service is subject to the sales tax if the customer's place of primary use of the service is in this state, regardless of where the service originates or terminates, as determined under the federal Mobile Telecommunications Sourcing Act (act). Under the act, a mobile telecommunications service provider is responsible for determining the customer's place of primary use, but may rely on an electronic database of addresses and taxing jurisdictions to make such a determination. Either this state or a designated database provider maintains the electronic database.

Under current law, telephone services obtained by using a prepaid telephone calling card are exempt from the sales tax and the use tax, if the sales tax or use tax was paid on the purchase of the prepaid telephone calling card. This bill clarifies current law by creating a sales and use tax exemption on telephone services obtained by using a prepaid telephone calling card, if the sales tax or use tax was paid on the purchase of the prepaid telephone calling card.

2001 - 2002 Legislature

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LRB-3591/2
JK:kmg:jf

SENATE BILL 260

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* 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.** 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a. and
2 amended to read:

3 77.52 (2) (a) 5. a. The sale of telecommunications services, except services
4 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or
5 terminate in this state; except services that are obtained by means of a toll-free
6 number, that originate outside this state and that terminate in this state; and are
7 charged to a service address in this state, regardless of the location where that charge
8 is billed or paid; and the sale of the rights to purchase telecommunications services,
9 including purchasing reauthorization numbers, by paying in advance and by using
10 an access number and authorization code, except sales that are subject to subd. 5. b.

11 **SECTION 2.** 77.52 (2) (a) 5. b. of the statutes is created to read:

12 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended
13 by P.L. 106-252, if the customer's place of primary use of the services is in this state,
14 as determined under 4 USC 116 to 126, as amended by P.L. 106-252. For purposes
15 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.
16 106-252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106-252,
17 or the application of 4 USC 116 to 126, as amended by P.L. 106-252, is found
18 unconstitutional the sale of telecommunications services is subject to the tax
19 imposed under this section as provided in subd. 5. a.

20 **SECTION 3.** 77.52 (3m) (intro.) of the statutes is amended to read:

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LRB-3591/2

JK:kmg:jf

SECTION 3

SENATE BILL 260

1 77.52 (3m) (intro.) In regard to the sale of the rights to purchase
2 telecommunications services under sub. (2) (a) 5. a.:

3 **SECTION 4.** 77.52 (3n) of the statutes is created to read:

4 77.52 (3n) In regard to the sale of the rights to purchase telecommunications
5 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC
6 116 to 126, as amended by P.L. 106-252.

7 **SECTION 5.** 77.525 of the statutes is amended to read:

8 **77.525 Reduction to prevent double taxation.** Any person who is subject
9 to the tax under s. 77.52 (2) (a) 5. a. on telecommunications services that terminate
10 in this state and who has paid a similar tax on the same services to another state may
11 reduce the amount of the tax remitted to this state by an amount equal to the similar
12 tax properly paid to another state on those services or by the amount due this state
13 on those services, whichever is less. That person shall refund proportionally to the
14 persons to whom the tax under s. 77.52 (2) (a) 5. a. was passed on an amount equal
15 to the amounts not remitted.

16 **SECTION 6.** 77.54 (46m) of the statutes is created to read:

17 77.54 (46m) The gross receipts from the sale of and the storage, use, or other
18 consumption of telecommunications services, if the telecommunications services are
19 obtained by using the rights to purchase telecommunications services, including
20 purchasing reauthorization numbers, by paying in advance and by using an access
21 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was
22 previously paid on the sale or purchase of such rights.

23 **SECTION 7.** 77.72 (3) (b) of the statutes is amended to read:

24 77.72 (3) (b) *Exceptions.* ~~Communication~~ A communication service has a situs
25 where the customer is billed for the service if the customer calls collect or pays by

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SENATE BILL 260

LRB-3591/2
JK:kmg:jf
SECTION 7

1 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place
2 of primary use of the services, as determined under 4 USC 116 to 126, as amended
3 by P.L. 106-252. Towing services have a situs at the location to which the vehicle is
4 delivered. Services performed on tangible personal property have a situs at the
5 location where the property is delivered to the buyer.

6 **SECTION 8. Initial applicability.**

7 (1) This act first applies to customer bills issued after August 1, 2002.

8 (END)

2001 - 2002 LEGISLATURE

LRBa0711/1

JK:wj/rs

DOR said this will make it better

SENATE AMENDMENT,

TO 2001 SENATE BILL 260

Suggestion: change page 1, lines 4 & 5 to: "If a customer purchases a service subject to 4 USC 116 to 126, as amended by P.L. 106-252, and if the customer believes..."

1 The customer remedy provision does not apply to persons with a place of primary use outside WI. Example - Customer lives in Chicago and is charged WI tax on mobile telephone service. Customer has not purchased "a service described under 5.77.52(2)(a) 5.b." therefore customer remedy provision doesn't apply.

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 3, line 6: after that line insert:
- 3 "SECTION 4m. 77.523 of the statutes is created to read:
- 4 77.523 Customer remedy. If a customer purchases a service described under
- 5 s. 77.52 (2) (a) 5. b., and if the customer believes that the amount of the tax assessed
- 6 for the service under this subchapter or the place of primary use or taxing jurisdiction
- 7 assigned to the service is erroneous, the customer may request that the service
- 8 provider correct the alleged error by sending a written notice to the service provider.
- 9 The notice shall include a description of the alleged error, the street address for the
- 10 customer's place of primary use of the service, the account name and number of the
- 11 service for which the customer seeks a correction, and any other information that the
- 12 service provider reasonably requires to process the request. Within 60 days from the
- 13 date that a service provider receives a request under this section, the service provider

2001 - 2002 Legislature

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LRBa0711/1
JK:wjrs

1 shall review its records to determine the customer's taxing jurisdiction. If the review
 2 indicates that there is no error as alleged, the service provider shall explain the
 3 findings of the review in writing to the customer. If the review indicates that there
 4 is an error as alleged, the service provider shall correct the error and shall refund or
 5 credit the amount of any tax collected erroneously as a result of the error from the
 6 customer in the previous 24 months. A customer may take no other action, or
 7 commence any action, to correct an alleged error in the amount of the tax assessed
 8 under this subchapter on a service described under s. 77.52 (2) (a) 5. b., or to correct
 9 an alleged error in the assigned place of primary use or taxing jurisdiction, unless
 10 the customer has exhausted his or her remedies under this section.

11

(END)

② 4 years allowed for other sales/use tax transactions. Suggest change to 48 months or, to be more consistent, reference sec. 77.59(4)(a), Wis. Stats.

③ Unclear whether interest provisions of sec. 77.59(4)(c), Wis. Stats., applies. Suggest specific reference.

Notes by M. Hinnendeel
1/8/02



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBs0349/1
MDK/MGG/RNK/RPN;jld/cmh/hmh/ejs:jf

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2001 ASSEMBLY BILL 889

1 **AN ACT** *to renumber and amend* 100.207 (1), 196.202 (2) and 196.50 (4); *to*
2 *amend* 93.14 (3), 93.15 (1), 93.15 (2), 196.195 (12) (a), 196.499 (1) (b), 196.50
3 (4) (title), 198.12 (6) and 198.22 (6); *to repeal and recreate* 196.202 (2) (intro.);
4 and *to create* 15.155 (5), 20.143 (3) (je), 20.143 (3) (jm), 20.143 (3) (js), 20.143
5 (3) (kv), 93.01 (1r), 93.14 (1m), 100.207 (1) (a), 100.207 (1) (c), 100.207 (3g),
6 100.207 (3m), 100.207 (5g), 100.207 (5m), 146.70 (3m), 196.02 (13), 196.195 (12)
7 (f), 196.196 (5) (f) 1. g., 196.196 (5) (f) 4., 196.202 (2) (b), 196.202 (6), 196.50 (4)
8 (a) and 196.50 (4) (c) of the statutes; **relating to:** creating a wireless 911 board;
9 imposing a surcharge on wireless telephone customers; making grants for
10 wireless 911 emergency telephone service; requiring wireless number
11 portability; jurisdictional and enforcement authority of the department of
12 agriculture, trade and consumer protection; construction and ownership of
13 telecommunications facilities by local units of government; services provided by

1 telecommunications providers; authority of the public service commission
2 regarding area codes and telephone numbers; allowing for adjustments in
3 incentive-regulated telecommunication utility rates; requesting the joint
4 legislative council to study retail and wholesale telecommunications services;
5 granting rule-making authority; and making appropriations.

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

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

7 15.155 (5) WIRELESS 911 BOARD. (a) There is created a wireless 911 board
8 attached to the department of commerce under s. 15.03 consisting of the following
9 members:

10 1. One representative to the assembly, appointed by the speaker of the
11 assembly.

12 2. One representative to the assembly, appointed by the assembly minority
13 leader.

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

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

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

18 6. Four persons who represent the interests of public agencies, as defined in s.
19 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate
20 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the
21 governor.

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

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

2 20.143 (3) (je) *Wireless 911 board general program operations.* Two and
3 one-half percent of all moneys received under s. 146.70 (3m) (d) 3. for general
4 program operations of the wireless 911 board, including contracting for audits under
5 s. 146.70 (3m) (b) 5.

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

7 20.143 (3) (jm) *Wireless provider grants.* Forty-eight and three-fourths
8 percent of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board
9 to make grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers
10 to the appropriation under par. (kv) as provided under s. 146.70 (3m) (b) 3.

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

12 20.143 (3) (js) *Public agency and wireless provider grants.* Forty-eight and
13 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the
14 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and
15 to wireless providers under s. 146.70 (3m) (b) 3.

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

17 20.143 (3) (kv) *Public agency grants.* All moneys transferred from the
18 appropriation account under par. (jm) for the wireless 911 board to make grants to
19 public agencies under s. 146.70 (3m) (b) 1.

20 SECTION 6. 93.01 (1r) of the statutes is created to read:

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

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

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

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

5 SECTION 7. 93.14 (1m) of the statutes is created to read:

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

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

11 SECTION 8. 93.14 (3) of the statutes is amended to read:

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

15 SECTION 9. 93.15 (1) of the statutes is amended to read:

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

21 SECTION 10. 93.15 (2) of the statutes is amended to read:

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

1 document, or such part thereof of the document, is relevant to any matter which that
2 the department may investigate.

3 SECTION 11. 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and
4 amended to read:

5 100.207 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,
6 ~~“telecommunications;~~

7 (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

8 SECTION 12. 100.207 (1) (a) of the statutes is created to read:

9 100.207 (1) (a) “Telecommunications provider” has the meaning given in s.
10 196.01 (8p).

11 SECTION 13. 100.207 (1) (c) of the statutes is created to read:

12 100.207 (1) (c) “Telecommunications subscription” means a contract between
13 a telecommunications provider and a customer for a telecommunications service that
14 is always provided to the customer during each billing period.

15 SECTION 14. 100.207 (3g) of the statutes is created to read:

16 100.207 (3g) ~~BILLING FOR OTHER SERVICES~~. (a) A telecommunications provider
17 may not bill a customer for any goods or services, other than telecommunications
18 services, unless all of the following apply:

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

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

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

1 1. The telecommunications provider shall distinguish the billing for the other
2 goods or services from the billing for the telecommunications service in a conspicuous
3 manner. The department shall promulgate rules establishing requirements for
4 complying with this subdivision.

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

7 **SECTION 15.** 100.207 (3m) of the statutes is created to read:

8 **100.207 (3m) TELECOMMUNICATIONS SERVICE CONFIRMATION.** (a) A
9 telecommunications provider may not provide a telecommunications service to a
10 customer unless all of the following apply:

11 1. The telecommunications provider reasonably believes that the customer
12 knowingly consented to receive the service.

13 2. The telecommunications provider confirms with the customer, before
14 providing the telecommunications service, that the customer knowingly consented
15 to receive the service.

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

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

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

24 **100.207 (5g) RESTRICTIONS ON CONTRACTS.** No telecommunications provider
25 may place in a contract entered into with a customer located in this state a clause that

1 provides that a law of a state other than this state applies to the parties or terms of
2 the contract or the rights and remedies under the contract, unless the law of the other
3 state is in conformity with the law of this state.

4 SECTION 17. 100.207 (5m) of the statutes is created to read:

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

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

10 146.70 (3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

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

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

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

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

22 (b) *Grants.* 1. From the appropriations under s. 20.143 (3) (js) and (kv), the
23 board shall make grants to public agencies that operate public safety answering
24 points for eligible expenses under par. (c). A public agency is eligible for a grant
25 under this subdivision only if the board determines that the public agency is

1 incurred for leasing, purchasing, operating, or maintaining a wireless public safety
2 answering point, including expenses for all of the following:

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

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

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

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

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

14 b. Vehicles and equipment in vehicles.

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

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

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

20 (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of
21 50 cents per month for each telephone number that has a billable address in this state
22 and shall identify the surcharge on a customer's bill on a separate line that is
23 identified as "Wireless 911 Surcharge." The board may promulgate rules that
24 increase or decrease the surcharge, except that the board may not increase the

1 surcharge more than once per year, any increase must be uniform statewide and may
2 not exceed 10 cents, and the surcharge may not exceed \$1.

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

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

12 4. Wireless providers may retain 2% of the surcharges collected in fiscal year
13 2002-03 for reimbursing costs related to collecting the surcharge, including
14 reprogramming billing systems.

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

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

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 ^(10 year sunset Not 5 years) 60th month
15 beginning after the effective date of this paragraph [revisor inserts date]. ^{20 month}

16 SECTION 19. 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 20. 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 21.** 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 22.** 196.196 (5) (f) 1. g. of the statutes is created to read:

13 196.196 (5) (f) 1. g. Competition for telecommunications services throughout
14 the state.

15 **SECTION 23.** 196.196 (5) (f) 4. of the statutes is created to read:

16 196.196 (5) (f) 4. The commission may require a telecommunications provider
17 or provider of cable television service to submit to the commission any information
18 that the commission determines is necessary to prepare the report under subd. 1.
19 The commission may withhold from public inspection any information obtained
20 under this subdivision that would aid a competitor of a telecommunications provider
21 or provider of cable television service.

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

Send Monday

Passed

62441

Budget Amendments 2002

LEGISLATION

Montgomery

STATEMENTS

LRB 0711 & 0349/1 combined with several modifications

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Rose Smyrski

↳ Ask her what modifications are

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SUMMARY

Wireless related provisions -E911

Create wireless board with 12 members: who represent public agencies in public safety agencies; wireless companies (commercial mobile radio service providers); legislators
Board attached to Commerce

Allow wireless companies to add a surcharge on their phone bills, which must be identified as the "wireless 911 surcharge"

Make grants for wireless 911 emergency telephone service

Sunset 10 years

Modify the language as it relates to grants to wireless providers and public agencies

Modify language for wireless eligible expenses

Create customer remedy language

↳ 2664 LRB a 0711/1

LEGISLATION

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Post-it® Fax Note	7871	Date	# of pages ▶ 19
To	Mark Kunkel	From	Darin Renner
Co./Dept	LRB	Co.	LRB
Phone #		Phone #	
Fax #		Fax #	

Talk to Mike Heiflis or Michelle in Foti's office 6-2401

Mark: Include DOR changes written on the LRB a 0711/1 draft and written changes to LRBs 0349/1

Handwritten initials/signature

2001 - 2002 LEGISLATURE

LRB-3591/2

JK:kmgjf

2001 SENATE BILL 260

October 2, 2001 - Introduced by Senator JAUCH, cosponsored by Representatives M. LEHMAN, AINSWORTH, JESKEWITZ, LIPPERT, MEYERHOFER, MUSSER, OLSEN and STONE. Referred to Joint survey committee on Tax Exemptions.

1 AN ACT to renumber and amend 77.52 (2) (a) 5.; to amend 77.52 (3m) (intro.),
2 77.525 and 77.72 (3) (b); and to create 77.52 (2) (a) 5. b., 77.52 (3n) and 77.54
3 (46m) of the statutes; relating to: the sales tax imposed on the sale of mobile
4 telecommunications services.

Analysis by the Legislative Reference Bureau

Under current law, the sale of a mobile telecommunications service is subject to the sales tax if, generally, the service either originates or terminates in this state. Under this bill, for customer bills issued after August 1, 2002, the sale of a mobile telecommunications service is subject to the sales tax if the customer's place of primary use of the service is in this state, regardless of where the service originates or terminates, as determined under the federal Mobile Telecommunications Sourcing Act (act). Under the act, a mobile telecommunications service provider is responsible for determining the customer's place of primary use, but may rely on an electronic database of addresses and taxing jurisdictions to make such a determination. Either this state or a designated database provider maintains the electronic database.

Under current law, telephone services obtained by using a prepaid telephone calling card are exempt from the sales tax and the use tax, if the sales tax or use tax was paid on the purchase of the prepaid telephone calling card. This bill clarifies current law by creating a sales and use tax exemption on telephone services obtained by using a prepaid telephone calling card, if the sales tax or use tax was paid on the purchase of the prepaid telephone calling card.

2001 - 2002 Legislature

- 2 -

LRB-3591/2
JK:kmg:jf

SENATE BILL 260

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* 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.** 77.52 (2) (a) 5. of the statutes is renumbered 77.52 (2) (a) 5. a. and
2 amended to read:

3 77.52 (2) (a) 5. a. The sale of telecommunications services, except services
4 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or
5 terminate in this state; except services that are obtained by means of a toll-free
6 number, that originate outside this state and that terminate in this state; and are
7 charged to a service address in this state, regardless of the location where that charge
8 is billed or paid; and the sale of the rights to purchase telecommunications services,
9 including purchasing reauthorization numbers, by paying in advance and by using
10 an access number and authorization code, except sales that are subject to subd. 5. b.

11 **SECTION 2.** 77.52 (2) (a) 5. b. of the statutes is created to read:

12 77.52 (2) (a) 5. b. The sale of services subject to 4 USC 116 to 126, as amended
13 by P.L. 106-252, if the customer's place of primary use of the services is in this state,
14 as determined under 4 USC 116 to 126, as amended by P.L. 106-252. For purposes
15 of this subd. 5. b., all of the provisions of 4 USC 116 to 126, as amended by P.L.
16 106-252, are adopted, except that if 4 USC 116 to 126, as amended by P.L. 106-252,
17 or the application of 4 USC 116 to 126, as amended by P.L. 106-252, is found
18 unconstitutional the sale of telecommunications services is subject to the tax
19 imposed under this section as provided in subd. 5. a.

20 **SECTION 3.** 77.52 (3m) (intro.) of the statutes is amended to read:

2001 - 2002 Legislature

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LRB-3591/2

JK:kmg:jf

SECTION 3

SENATE BILL 260

1 77.52 (3m) (intro.) In regard to the sale of the rights to purchase
2 telecommunications services under sub. (2) (a) 5. a.:

3 **SECTION 4.** 77.52 (3n) of the statutes is created to read:

4 77.52 (3n) In regard to the sale of the rights to purchase telecommunications
5 services under sub. (2) (a) 5. b., the situs of the sale is as determined under 4 USC
6 116 to 126, as amended by P.L. 106-252.

7 **SECTION 5.** 77.525 of the statutes is amended to read:

8 **77.525 Reduction to prevent double taxation.** Any person who is subject
9 to the tax under s. 77.52 (2) (a) 5. a. on telecommunications services that terminate
10 in this state and who has paid a similar tax on the same services to another state may
11 reduce the amount of the tax remitted to this state by an amount equal to the similar
12 tax properly paid to another state on those services or by the amount due this state
13 on those services, whichever is less. That person shall refund proportionally to the
14 persons to whom the tax under s. 77.52 (2) (a) 5. a. was passed on an amount equal
15 to the amounts not remitted.

16 **SECTION 6.** 77.54 (46m) of the statutes is created to read:

17 77.54 (46m) The gross receipts from the sale of and the storage, use, or other
18 consumption of telecommunications services, if the telecommunications services are
19 obtained by using the rights to purchase telecommunications services, including
20 purchasing reauthorization numbers, by paying in advance and by using an access
21 number and authorization code; and if the tax imposed under s. 77.52 or 77.53 was
22 previously paid on the sale or purchase of such rights.

23 **SECTION 7.** 77.72 (3) (b) of the statutes is amended to read:

24 77.72 (3) (b) *Exceptions.* ~~Communication~~ A communication service has a situs
25 where the customer is billed for the service if the customer calls collect or pays by

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SENATE BILL 260

LRB-3591/2

JK:kmg:jf

SECTION 7

1 credit card. Services subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place
2 of primary use of the services, as determined under 4 USC 116 to 126, as amended
3 by P.L. 106-252. Towing services have a situs at the location to which the vehicle is
4 delivered. Services performed on tangible personal property have a situs at the
5 location where the property is delivered to the buyer.

6 **SECTION 8. Initial applicability.**

7 (1) This act first applies to customer bills issued after August 1, 2002.

8

(END)

2001 - 2002 LEGISLATURE

LRBa0711/1
JK:wj/frs

DOR said this
will make it better

SENATE AMENDMENT,

TO 2001 SENATE BILL 260

Suggestion: change Page 1, lines 4 & 5 to: "If a customer purchases a service subject to 4 USC 116 to 126, as amended by P.L. 106-252, and if the customer believes..."

① The customer remedy provision does not apply to persons with a place of primary use outside WI. Example - Customer lives in Chicago and is charged WI tax on mobile telephone service. Customer has not purchased a service described under s. 77.52(2)(a) 5.b., therefore customer remedy provision does not apply.

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 3, line 6: after that line insert:
- 3 "SECTION 4m. 77.523 of the statutes is created to read:
- 4 77.523 Customer remedy. If a customer purchases a service described under
- 5 s. 77.52 (2) (a) 5. b., and if the customer believes that the amount of the tax assessed
- 6 for the service under this subchapter or the place of primary use or taxing jurisdiction
- 7 assigned to the service is erroneous, the customer may request that the service
- 8 provider correct the alleged error by sending a written notice to the service provider.
- 9 The notice shall include a description of the alleged error, the street address for the
- 10 customer's place of primary use of the service, the account name and number of the
- 11 service for which the customer seeks a correction, and any other information that the
- 12 service provider reasonably requires to process the request. Within 60 days from the
- 13 date that a service provider receives a request under this section, the service provider

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LRBa0711/1
JK:wljrs

1 shall review its records to determine the customer's taxing jurisdiction. If the review
 2 indicates that there is no error as alleged, the service provider shall explain the
 3 findings of the review in writing to the customer. If the review indicates that there
 4 is an error as alleged, the service provider shall correct the error and shall refund or
 5 credit the amount of any tax collected erroneously as a result of the error from the
 6 customer in the previous 24 months. A customer may take no other action, or
 7 commence any action, to correct an alleged error in the amount of the tax assessed
 8 under this subchapter on a service described under s. 77.52 (2) (a) 5. b., or to correct
 9 an alleged error in the assigned place of primary use or taxing jurisdiction, unless
 10 the customer has exhausted his or her remedies under this section."

11

(END)

② 4 years allowed for other sales/use tax transactions. Suggest change to 48 months or, to be more consistent, reference sec. 77.59(4)(a), Wis. Stats.

③ Unclear whether interest provisions of sec. 77.59(4)(c), Wis. Stats., applies. Suggest specific reference.

Notes by M. Hinnendael
1/8/02

Kreye, Joseph

From: Larson, Drew (Legislature)
Sent: Tuesday, March 12, 2002 9:35 AM
To: Kreye, Joseph
Subject: Assembly Republican Caucus -- SB 260 Provisions

Hi Joe --

Apart from the issue of whether to incorporate the provisions of 77.59(4) that we just discussed, there's an initial applicability problem with the prepaid calling card portion of the proposal. Pls. incorporate the terms of LRBa0917/1 into the draft to correct this problem. Call if you have questions.

I'm still waiting for word on the 77.59(4) question.

Thanks.

Drew B. Larson
Legislative Fiscal Bureau
Tel. (608) 266-3847