

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 61**

March 4, 2003 – Offered by COMMITTEE ON ENERGY AND UTILITIES.

1 **AN ACT** *to amend* 146.70 (7); and *to create* 20.155 (3), 25.17 (1) (yo), 25.98, 77.51
2 (4) (b) 8., 77.51 (15) (b) 7. and 146.70 (3m) of the statutes; **relating to:** creating
3 a wireless 911 fund; imposing a surcharge on wireless telephone customers;
4 making grants for wireless 911 emergency telephone service; granting
5 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.** 20.155 (3) of the statutes is created to read:

7 20.155 (3) WIRELESS 911 GRANTS. (q) *General program operations and grants.*

8 From the wireless 911 fund, all moneys received under s. 146.70 (3m) (f) 1. to
9 administer and make grants under s. 146.70 (3m) (d) and supplemental grants under
10 s. 146.70 (3m) (e).

11 **SECTION 2.** 25.17 (1) (yo) of the statutes is created to read:

12 25.17 (1) (yo) Wireless 911 fund (s. 25.98);

1 **SECTION 3.** 25.98 of the statutes is created to read:

2 **25.98 Wireless 911 fund.** There is established a separate nonlapsible trust
3 fund designated as the wireless 911 fund, consisting of deposits by the public service
4 commission under s. 146.70 (3m) (f) 1.

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

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

9 **SECTION 5.** 77.51 (15) (b) 7. of the statutes is created to read:

10 77.51 **(15)** (b) 7. The surcharge established in rules of the public service
11 commission under s. 146.70 (3m) (f) for customers of wireless providers, as defined
12 in s. 146.70 (3m) (a) 6.

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

14 146.70 **(3m)** WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

15 1. “Commercial mobile radio service provider” has the meaning given in s.
16 196.01 (2g).

17 2. “Commission” means the public service commission.

18 3. “Federal wireless orders” means the orders of the federal communications
19 commission regarding 911 emergency services for wireless telephone users in FCC
20 docket no. 94–102.

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

23 5. “Reimbursement period” means the 3–year period beginning on the first day
24 of the 2nd month beginning after the effective date of the rules promulgated under
25 par. (f) 1.

1 6. “Wireless provider” means a commercial mobile radio service provider that
2 is subject to the federal wireless orders.

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

8 (b) *Grant applications; wireless providers.* 1. Except as provided in subd. 2.,
9 a wireless provider may not receive a grant under par. (d) unless, no later than the
10 first day of the 3rd month beginning after the effective date of the rules promulgated
11 under par. (d) 4., the wireless provider applies to the commission with an estimate,
12 and supporting documentation, of the costs that it has incurred, or will incur, during
13 the reimbursement period to upgrade, purchase, lease, program, install, test,
14 operate, or maintain all data, hardware, and software necessary to comply with the
15 federal wireless orders.

16 2. A wireless provider that does not provide service to customers in this state
17 prior to the effective date of this subdivision [revisor inserts date], may make an
18 application under subd. 1. after the date specified in subd. 1. pursuant to rules
19 promulgated by the commission under par. (d) 4.

20 (c) *Grant applications; local governments.* 1. A local government that operates
21 a wireless public safety answering point, or local governments that jointly operate
22 a wireless public safety answering point, may not receive a grant under par. (d)
23 unless the requirements under subds. 3. to 5. are satisfied and, no later than the first
24 day of the 3rd month beginning after the effective date of the rules promulgated
25 under par. (d) 4., every county which itself is one of the local governments or in which

1 any of the local governments is located applies to the commission with an estimate,
2 and supporting documentation, of the costs that the local government or local
3 governments have directly and primarily incurred, or will directly and primarily
4 incur, during the reimbursement period for leasing, purchasing, operating, or
5 maintaining the wireless public safety answering point, including costs for all of the
6 following:

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

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

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

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

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

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

8 5. A local government that operates, or local governments that jointly operate,
9 a wireless public safety answering point are not eligible for grants under par. (d)
10 unless the wireless public safety answering point serves the entire geographic area
11 of all of the following:

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

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

15 (d) *Grants; commission approval and rules.* 1. The commission shall approve
16 an application under par. (b) or (c) if the commission determines that the costs
17 estimated in the application are reasonable and have been, or will be, incurred for
18 the purpose of promoting a cost-effective and efficient statewide system for
19 responding to wireless emergency 911 telephone calls. If the commission does not
20 approve an application, the commission shall provide the applicant or applicants
21 with the commission's reasons and give the applicant or applicants an opportunity
22 to resubmit the application.

23 2. From the appropriation under s. 20.155 (3) (q), the commission shall make
24 grants to reimburse wireless providers and local governments for costs approved
25 under subd. 1. that are actually incurred by the wireless providers and local

1 governments, except that no wireless provider or local government may receive a
2 total amount in grants that exceeds the estimated amount approved by the
3 commission under subd. 1. for that wireless provider or local government. For
4 applications for the joint operation of a wireless public safety answering point, the
5 commission shall apportion the grants in the manner specified under par. (c) 2.

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

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

11 b. Vehicles and equipment in vehicles.

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

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

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

17 4. The commission shall promulgate rules establishing requirements and
18 procedures for making grants under this paragraph, including criteria for approving
19 estimated costs under subd. 1. The rules shall require the commission to make the
20 grants during the 3–year period beginning on the first day of the 3rd month
21 beginning after the effective date of the rules promulgated under par. (f) 1. The rules
22 shall include record–keeping requirements to ensure that the grants are used to
23 reimburse estimated costs approved by the commission. The rules shall allow the
24 commission to make the grants in installments. The rules shall also include
25 requirements for wireless providers specified in par. (b) 2. to apply for grants.

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

7 (f) *Wireless surcharge.* 1. The commission shall promulgate rules requiring
8 each wireless provider to impose the same monthly surcharge for each telephone
9 number of a customer that has a billable address in this state and pay the surcharge
10 to the commission for deposit in the wireless 911 fund. The rules shall require the
11 surcharge to be imposed during the 3–year period beginning on the first day of the
12 2nd month beginning after the effective date of the rules. The amount of the
13 surcharge shall be sufficient for the commission to administer and make the grants
14 under par. (d) and the supplemental grants under par. (e).

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

18 3. A wireless provider shall identify the surcharge on a customer’s bill on a
19 separate line that consists of the words “federal wireless 911 mandate fee.”

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

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

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

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

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

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

9 **146.70 (7) TELECOMMUNICATIONS UTILITY AND WIRELESS PROVIDERS NOT LIABLE.** A
10 telecommunications utility shall not be liable to any person who uses an emergency
11 number system created under this section and a wireless provider, as defined in sub.
12 (3m) (a) 6., shall not be liable to any person who makes an emergency telephone call
13 initially routed to a wireless public safety answering point, as defined in sub. (3m)
14 (a) 7.

15 **SECTION 8. Nonstatutory provisions.**

16 (1) PROPOSED RULES.

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

23 (b) *Wireless 911 grant rules.* The public service commission shall submit in
24 proposed form the rules required under section 146.70 (3m) (d) 4. and (e) of the
25 statutes, as created by this act, to the legislative council staff under section 227.15

1 (1) of the statutes no later than the first day of the 7th month beginning after the
2 effective date of this paragraph.

3 (END)