

**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
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), 22.07 (3m), 25.17 (1) (yo),  
2           25.98, 77.51 (4) (b) 8., 77.51 (15) (b) 7. and 146.70 (3m) of the statutes; **relating**  
3           **to:** creating a wireless 911 fund; imposing a surcharge on wireless telephone  
4           customers; making grants for wireless 911 emergency telephone service;  
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.** 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.** 22.07 (3m) of the statutes is created to read:

1           22.07 **(3m)** Administer a program to facilitate purchases, leases, and service  
2 contracts by local governments that receive grants under s. 146.70 (3m) (d).

3           **SECTION 3.** 25.17 (1) (yo) of the statutes is created to read:

4           25.17 **(1)** (yo) Wireless 911 fund (s. 25.98);

5           **SECTION 4.** 25.98 of the statutes is created to read:

6           **25.98 Wireless 911 fund.** There is established a separate nonlapsible trust  
7 fund designated as the wireless 911 fund, consisting of deposits by the public service  
8 commission under s. 146.70 (3m) (f) 1.

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

10          77.51 **(4)** (b) 8. 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.** 77.51 (15) (b) 7. of the statutes is created to read:

14          77.51 **(15)** (b) 7. The surcharge established in rules of the public service  
15 commission under s. 146.70 (3m) (f) for customers of wireless providers, as defined  
16 in s. 146.70 (3m) (a) 6.

17          **SECTION 7.** 146.70 (3m) of the statutes is created to read:

18          146.70 **(3m)** WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

19          1. “Commercial mobile radio service provider” has the meaning given in s.  
20 196.01 (2g).

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

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

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

3           5. “Reimbursement period” means the period beginning on the effective date  
4 of this subdivision .... [revisor inserts date], and ending on the last day of the 3–year  
5 period beginning on the first day of the 2nd month beginning after the effective date  
6 of the rules promulgated under par. (f) 1.

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

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

14           (b) *Grant applications; wireless providers.* 1. Except as provided in subd. 2.,  
15 a wireless provider may not receive a grant under par. (d) unless, no later than the  
16 first day of the 3rd month beginning after the effective date of the rules promulgated  
17 under par. (d) 4., the wireless provider applies to the commission with an estimate,  
18 and supporting documentation, of the costs that it has incurred, or will incur, during  
19 the reimbursement period to upgrade, purchase, lease, program, install, test,  
20 operate, or maintain all data, hardware, and software necessary to comply with the  
21 federal wireless orders. The estimate may not include, and a wireless provider may  
22 not seek reimbursement for, any such costs that the wireless provider has previously  
23 recovered from customers.

24           2. A wireless provider that does not provide service to customers in this state  
25 prior to the effective date of this subdivision .... [revisor inserts date], may make an

1 application under subd. 1. after the date specified in subd. 1. pursuant to rules  
2 promulgated by the commission under par. (d) 4.

3 (c) *Grant applications; local governments.* 1. A local government that operates  
4 a wireless public safety answering point, or local governments that jointly operate  
5 a wireless public safety answering point, may not receive a grant under par. (d)  
6 unless the requirements under subds. 3. to 5. are satisfied and, no later than the first  
7 day of the 3rd month beginning after the effective date of the rules promulgated  
8 under par. (d) 4., every county which itself is one of the local governments or in which  
9 any of the local governments is located applies to the commission with an estimate,  
10 and supporting documentation, of the costs that the local government or local  
11 governments have directly and primarily incurred, or will directly and primarily  
12 incur, during the reimbursement period for leasing, purchasing, operating, or  
13 maintaining the wireless public safety answering point, including costs for all of the  
14 following:

15 a. Necessary network equipment, computer hardware and software, database  
16 equipment, and radio and telephone equipment, that are located within the wireless  
17 public safety answering point.

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

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

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

24 3. A local government that operates a wireless public safety answering point,  
25 or local governments that jointly operate a wireless public safety answering point,

1 are not eligible for grants under par. (d) unless, no later than the first day of the 3rd  
2 month beginning after the effective date of the rules promulgated under par. (d) 4.,  
3 every county which itself is one of the local governments or in which any of the local  
4 governments is located has passed a resolution specifying that the wireless public  
5 safety answering point is eligible for the grants. Except as provided in subd. 4., only  
6 one wireless public safety answering point in each county is eligible for local  
7 governments to receive grants under par. (d).

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

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

19 a. For each local government that is not a county, each county in which the local  
20 government is located.

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

22 (d) *Grants; commission approval and rules.* 1. The commission shall approve  
23 an application under par. (b) or (c) if the commission determines that the costs  
24 estimated in the application are reasonable and have been, or will be, incurred for  
25 the purpose of promoting a cost-effective and efficient statewide system for

1 responding to wireless emergency 911 telephone calls. If the commission does not  
2 approve an application, the commission shall provide the applicant or applicants  
3 with the commission's reasons and give the applicant or applicants an opportunity  
4 to resubmit the application.

5 2. From the appropriation under s. 20.155 (3) (q), the commission shall make  
6 grants to reimburse wireless providers and local governments for costs approved  
7 under subd. 1. that are actually incurred by the wireless providers and local  
8 governments, except that no wireless provider or local government may receive a  
9 total amount in grants that exceeds the estimated amount approved by the  
10 commission under subd. 1. for that wireless provider or local government. For  
11 applications for the joint operation of a wireless public safety answering point, the  
12 commission shall apportion the grants in the manner specified under par. (c) 2.

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

15 a. Emergency service dispatch, including personnel, training, equipment,  
16 software, records management, radio communications, and mobile data network  
17 systems.

18 b. Vehicles and equipment in vehicles.

19 c. Communications equipment and software used to communicate with  
20 vehicles.

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

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

24 4. The commission shall promulgate rules establishing requirements and  
25 procedures for making grants under this paragraph, including criteria for approving

1 estimated costs under subd. 1. The rules shall require the commission to make the  
2 grants during the 3–year period beginning on the first day of the 3rd month  
3 beginning after the effective date of the rules promulgated under par. (f) 1. The rules  
4 shall include record–keeping requirements to ensure that the grants are used to  
5 reimburse estimated costs approved by the commission. The rules shall allow the  
6 commission to make the grants in installments. The rules shall also include  
7 requirements for wireless providers specified in par. (b) 2. to apply for grants.

8 5. To the greatest extent practicable, a local government that receives a grant  
9 under this paragraph shall make all purchases, leases, and service contracts under  
10 the grant through the program administered by the department of electronic  
11 government under s. 22.07 (3m) or through a consortium of local governments.

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

18 (f) *Wireless surcharge.* 1. The commission shall promulgate rules requiring  
19 each wireless provider to impose the same monthly surcharge for each telephone  
20 number of a customer that has a billable address in this state, except that the rules  
21 shall adjust the amount of the surcharge that is imposed on customers who prepay  
22 for service to ensure that such customers pay an amount that is comparable to the  
23 monthly amount paid by other customers. The rules shall require the surcharge to  
24 be imposed during the 3–year period beginning on the first day of the 2nd month  
25 beginning after the effective date of the rules. The amount of the surcharge shall be

1 sufficient for the commission to administer and make the grants under par. (d) and  
2 the supplemental grants under par. (e). The rules shall require wireless providers  
3 to pay the surcharge to the commission for deposit in the wireless 911 fund.

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

7 3. A wireless provider shall identify the surcharge on a customer's bill on a  
8 separate line that consists of the words "federal wireless 911 mandate fee."

9 4. The commission may bring an action to collect a surcharge that is not paid  
10 by a customer and the customer's wireless provider is not liable for the unpaid  
11 surcharge.

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

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

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

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

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

23 146.70 (7) ~~TELECOMMUNICATIONS UTILITY NOT LIABLE~~ LIABILITY EXEMPTION. A  
24 telecommunications utility, wireless provider, as defined in sub. (3m) (a) 6., or local  
25 government, as defined in sub. (3m) (a) 4., shall not be liable to any person who uses



1 an emergency number system created under this section or makes an emergency  
2 telephone call initially routed to a wireless public safety answering point, as defined  
3 in sub. (3m) (a) 7.

4 **SECTION 9. Nonstatutory provisions.**

5 (1) PROPOSED RULES.

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

12 (b) *Wireless 911 grant rules.* The public service commission shall submit in  
13 proposed form the rules required under section 146.70 (3m) (d) 4. and (e) of the  
14 statutes, as created by this act, to the legislative council staff under section 227.15  
15 (1) of the statutes no later than the first day of the 7th month beginning after the  
16 effective date of this paragraph.

17 (END)