

SENATE BILL No. 213

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-16.6; IC 36-8-16.7.

Synopsis: 911 fees. Eliminates the requirements that a communications service provider designated by the utility regulatory commission as an eligible telecommunications carrier for purposes of receiving reimbursement from the universal service fund must pay to the statewide 911 board the following: (1) A one time charge based on the enhanced prepaid wireless charge with respect to end users for which the provider received reimbursement from the universal service fund before August 1, 2015. (2) A one time fee based on the monthly statewide 911 fee with respect to end users for which the provider received reimbursement from the universal service fund before August 1, 2015. Specifies that for purposes of the statute concerning the enhanced prepaid wireless charge, a "retail transaction" does not include a transaction in which an eligible telecommunications carrier receives reimbursement from the universal service fund. Makes a technical change.

Effective: Upon passage.

Hershman

January 6, 2016, read first time and referred to Committee on Tax & Fiscal Policy.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 213

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-16.6-3.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter,**
4 **"eligible telecommunications carrier" refers to a provider that is**
5 **designated by the Indiana utility regulatory commission as an**
6 **eligible telecommunications carrier for purposes of receiving**
7 **reimbursement from the universal service fund through the**
8 **administrator designated by the Federal Communications**
9 **Commission.**

10 SECTION 2. IC 36-8-16.6-9, AS ADDED BY P.L.113-2010,
11 SECTION 151, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** As used in this chapter,
13 "retail transaction" means the purchase of prepaid wireless
14 telecommunications service from a seller for any purpose other than
15 resale.

16 **(b) The term does not include a transaction in which an eligible**
17 **telecommunications carrier receives reimbursement from the**



1 **universal service fund.**

2 SECTION 3. IC 36-8-16.6-11, AS AMENDED BY P.L.157-2015,
 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 11. (a) The board shall impose an enhanced
 5 prepaid wireless charge on each retail transaction. ~~Except as provided~~
 6 ~~in subsection (e)~~; The amount of the charge is one dollar (\$1). ~~(b)~~ The
 7 board may increase the enhanced prepaid wireless charge to ensure
 8 adequate revenue for the board to fulfill its duties and obligations under
 9 this chapter and IC 36-8-16.7. The following apply to an increase in the
 10 enhanced prepaid wireless charge:

11 (1) The board may increase the charge only one (1) time after
 12 June 30, 2015, and before July 1, 2020.

13 (2) The board may increase the charge only after review by the
 14 budget committee.

15 (3) If the board increases the charge, the amount of the increase
 16 must be ten cents (\$0.10).

17 ~~(e)~~ ~~(b)~~ A consumer that is the federal government or an agency of
 18 the federal government is exempt from the enhanced prepaid wireless
 19 charge imposed under this section.

20 ~~(d)~~ ~~(c)~~ This subsection applies to a provider that is designated by the
 21 Indiana utility regulatory commission as an eligible
 22 telecommunications carrier for purposes of receiving reimbursement
 23 from the universal service fund through the administrator designated
 24 by the Federal Communications Commission. ~~A provider:~~ **An eligible**
 25 **telecommunications carrier:**

26 (1) is not considered an agency of the federal government for
 27 purposes of the exemption set forth in subsection ~~(e)~~; ~~(b)~~; and

28 (2) with respect to prepaid wireless telecommunications service
 29 provided to end users by the ~~provider~~ **eligible**
 30 **telecommunications carrier** in its capacity as an eligible
 31 telecommunications carrier, is liable for the ~~enhanced prepaid~~
 32 ~~wireless~~ charge imposed under subsection ~~(e)~~; ~~(d)~~.

33 ~~(e)~~ A provider described in subsection ~~(d)~~ shall pay to the board the
 34 following charges: ~~(1) Not later than August 1, 2015, a one (1) time~~
 35 ~~charge equal to the product of the following factors: (A) The enhanced~~
 36 ~~prepaid wireless charge established under subsection (a): (B) The~~
 37 ~~number of unique end users for which the provider received~~
 38 ~~reimbursement from the universal service fund during the immediately~~
 39 ~~preceding month: (C) The number of months under the current service~~
 40 ~~agreement between each end user described in clause (B) and the~~
 41 ~~provider for which the provider has received reimbursement from the~~
 42 ~~universal service fund before August 1, 2015: (2) (d) Beginning~~



1 September 1, 2015, and on the first day of each month thereafter, **an**
 2 **eligible telecommunications carrier described in subsection (c)**
 3 **shall pay to the board** a charge equal to the product of the following
 4 factors:

5 ~~(A)~~ **(1)** The enhanced prepaid wireless charge established under
 6 subsection (a).

7 ~~(B)~~ **(2)** The number of unique end users for which the ~~provider~~
 8 **eligible telecommunications carrier** received reimbursement
 9 from the universal service fund during the immediately preceding
 10 month.

11 The ~~provider~~ **eligible telecommunications carrier** may bill and collect
 12 from each end user the charges calculated under this ~~subdivision~~
 13 **subsection** with respect to the end user. The ~~provider~~ **eligible**
 14 **telecommunications carrier** shall determine the manner in which the
 15 ~~provider~~ **eligible telecommunications carrier** bills and collects the
 16 charges. ~~A provider~~ **Except as provided in section 15 of this chapter,**
 17 **an eligible telecommunications carrier** may not bill and collect from
 18 an end user an amount greater than the charges paid by the ~~provider~~
 19 **eligible telecommunications carrier** to the board with respect to the
 20 end user.

21 SECTION 4. IC 36-8-16.6-13, AS AMENDED BY P.L.132-2012,
 22 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 13. The enhanced prepaid wireless charge is
 24 the liability of the consumer and not of the seller or a provider.
 25 However, **except as provided in section 15 of this chapter,** a seller is
 26 liable to remit to the department all enhanced prepaid wireless charges
 27 that the seller collects from consumers under section 12 of this chapter,
 28 including all charges that the seller is considered to collect where the
 29 amount of the charge has not been separately stated on an invoice,
 30 receipt, or other similar document provided to the consumer by the
 31 seller.

32 SECTION 5. IC 36-8-16.6-15, AS ADDED BY P.L.113-2010,
 33 SECTION 151, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE UPON PASSAGE]: Sec. 15. A seller **or an eligible**
 35 **telecommunications carrier** may deduct and retain one percent (1%)
 36 of ~~enhanced prepaid wireless~~ charges that the seller **or eligible**
 37 **telecommunications carrier** collects from consumers **under section**
 38 **11 of this chapter,** to reimburse the direct costs incurred by the seller
 39 or **eligible telecommunications carrier** in collecting and remitting
 40 ~~enhanced prepaid wireless the~~ charges.

41 SECTION 6. IC 36-8-16.7-8.7 IS ADDED TO THE INDIANA
 42 CODE AS A **NEW** SECTION TO READ AS FOLLOWS



1 [EFFECTIVE UPON PASSAGE]: **Sec. 8.7. As used in this chapter,**
 2 **"eligible telecommunications carrier" refers to a provider that is**
 3 **designated by the Indiana utility regulatory commission as an**
 4 **eligible telecommunications carrier for purposes of receiving**
 5 **reimbursement from the universal service fund through the**
 6 **administrator designated by the Federal Communications**
 7 **Commission.**

8 SECTION 7. IC 36-8-16.7-24, AS AMENDED BY P.L.157-2015,
 9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 24. (a) The statewide 911 board is established
 11 to develop, implement, and oversee the statewide 911 system. The
 12 board is a body corporate and politic, and though it is separate from the
 13 state, the exercise by the board of its powers constitutes an essential
 14 governmental function.

15 (b) The following recommendations must be made to the governor
 16 concerning the membership of the board:

17 (1) The executive committees of:

18 (A) the Indiana chapter of the National Emergency Number
 19 Association (NENA); and

20 (B) the Indiana chapter of the Association of Public Safety
 21 Communication Officials International (APCO);

22 shall jointly recommend three (3) individuals, at least one (1) of
 23 whom must have budget experience at the local level.

24 (2) The facilities based CMRS providers authorized to provide
 25 CMRS in Indiana shall jointly recommend one (1) individual.

26 (3) The Indiana Association of County Commissioners shall
 27 recommend one (1) individual who is a county commissioner in
 28 Indiana.

29 (4) The Indiana Sheriffs' Association shall recommend one (1)
 30 individual who is a county sheriff in Indiana.

31 (5) The Indiana Telecommunications Association, **or any**
 32 **successor organization**, shall recommend two (2) individuals as
 33 follows:

34 (A) One (1) individual representing a local exchange carrier
 35 that serves less than fifty thousand (50,000) local exchange
 36 access lines in Indiana.

37 (B) One (1) individual representing a local exchange carrier
 38 that serves at least fifty thousand (50,000) local exchange
 39 access lines in Indiana.

40 (6) The Indiana Cable Telecommunications Association shall
 41 recommend one (1) individual representing a VOIP provider.

42 (7) The Indiana Association of Cities and Towns shall



- 1 recommend one (1) individual representing municipalities.
2 (c) The board consists of the following fifteen (15) members:
3 (1) The treasurer of state or the treasurer's designee. The treasurer
4 of state or the treasurer's designee is chairperson of the board for
5 a term concurrent with the treasurer of state's term of office.
6 However, the treasurer of state's designee serves at the pleasure
7 of the treasurer of state.
8 (2) Three (3) members for a term of three (3) years who are
9 appointed by the governor after considering the recommendations
10 submitted under subsection (b)(1) by the executive committees of
11 NENA and APCO. At least one (1) member appointed under this
12 subdivision must have budget experience at the local level.
13 (3) One (1) facilities based CMRS member who is appointed by
14 the governor after considering the recommendation submitted
15 under subsection (b)(2) by the facilities based CMRS providers
16 authorized to provide CMRS in Indiana. A member appointed
17 under this subdivision may not be affiliated with the same
18 business entity as a member appointed under subdivision (6), (7),
19 or (8).
20 (4) One (1) county commissioner member appointed by the
21 governor after considering the recommendation submitted under
22 subsection (b)(3) by the Indiana Association of County
23 Commissioners.
24 (5) One (1) county sheriff member appointed by the governor
25 after considering the recommendation submitted under subsection
26 (b)(4) by the Indiana Sheriffs' Association.
27 (6) One (1) member who represents a local exchange carrier that
28 serves less than fifty thousand (50,000) local exchange access
29 lines in Indiana and who is appointed by the governor after
30 considering the recommendation of the Indiana
31 Telecommunications Association, **or any successor**
32 **organization**, under subsection (b)(5)(A). A member appointed
33 under this subdivision may not be affiliated with the same
34 business entity as a member appointed under subdivision (3), (7),
35 or (8).
36 (7) One (1) member who represents a local exchange carrier that
37 serves at least fifty thousand (50,000) local exchange access lines
38 in Indiana and who is appointed by the governor after considering
39 the recommendation of the Indiana Telecommunications
40 Association, **or any successor organization**, under subsection
41 (b)(5)(B). A member appointed under this subdivision may not be
42 affiliated with the same business entity as a member appointed



- 1 under subdivision (3), (6), or (8).
 2 (8) One (1) member who represents a VOIP provider and who is
 3 appointed by the governor after considering the recommendation
 4 of the Indiana Cable Telecommunications Association under
 5 subsection (b)(6). A member appointed under this subdivision
 6 may not be affiliated with the same business entity as a member
 7 appointed under subdivision (3), (6), or (7).
 8 (9) One (1) member who represents municipalities and is
 9 appointed by the governor after considering the recommendation
 10 of the Indiana Association of Cities and Towns submitted under
 11 subsection (b)(7).
 12 (10) The state fire marshal or the state fire marshal's designee.
 13 (11) The superintendent of the state police department or the
 14 superintendent's designee.
 15 (12) The executive director of the department of homeland
 16 security, or the executive director's designee. The executive
 17 director of the department of homeland security or the executive
 18 director's designee is a nonvoting member of the board.
 19 (13) The state GIS officer. The state GIS officer is a nonvoting
 20 member of the board.
 21 (d) This subsection applies to a member appointed by the governor
 22 under subsection (c)(2) through (c)(9). The governor shall ensure that
 23 the terms of the initial members appointed by the governor are
 24 staggered so that the terms of not more than five (5) members expire in
 25 a single calendar year. After the initial appointments, subsequent
 26 appointments shall be for three (3) year terms. A vacancy on the board
 27 shall be filled for the vacating member's unexpired term in the same
 28 manner as the original appointment, and a member of the board is
 29 eligible for reappointment. In making an appointment under subsection
 30 (c)(2) through (c)(9), the governor shall take into account the various
 31 geographical areas of Indiana, including rural and urban areas. A
 32 member appointed by the governor serves at the pleasure of the
 33 governor.
 34 (e) A member must be a resident of Indiana.
 35 (f) A member may not vote by proxy.
 36 SECTION 8. IC 36-8-16.7-32, AS AMENDED BY P.L.157-2015,
 37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 32. (a) Except as provided in subsections ~~(c)~~
 39 ~~(b)~~ and ~~(e)~~, ~~(d)~~, and subject to ~~subsection (b) and~~ section 48(e) of this
 40 chapter, the board shall assess a monthly statewide 911 fee on each
 41 standard user that is a customer having a place of primary use in
 42 Indiana at a rate that ~~(t)~~ ensures full recovery of the amount needed for



1 the board to make distributions to county treasurers consistent with this
 2 chapter and ~~(2)~~ **that** provides for the proper development, operation,
 3 and maintenance of a statewide 911 system. ~~Except as provided in~~
 4 ~~subsection (g)~~; The amount of the fee assessed under this subsection is
 5 one dollar (\$1). ~~(b)~~ The board may adjust the statewide 911 fee to
 6 ensure adequate revenue for the board to fulfill the board's duties and
 7 obligations under this chapter, subject to the following:

8 (1) The following apply to an increase in the fee:

9 (A) The board may increase the fee only one (1) time after
 10 June 30, 2015, and before July 1, 2020.

11 (B) The board may increase the fee only after review by the
 12 budget committee.

13 (C) If the board increases the fee, the amount of the increase
 14 must be ten cents (\$0.10).

15 (2) The fee may not be lowered more than one (1) time in a
 16 calendar year.

17 (3) The fee may not be lowered by an amount that is more than
 18 ten cents (\$0.10) without legislative approval.

19 ~~(e)~~ ~~(b)~~ The fee assessed under this section does not apply to a
 20 prepaid user in a retail transaction under IC 36-8-16.6.

21 ~~(d)~~ ~~(c)~~ An additional fee relating to the provision of 911 service may
 22 not be levied by a state agency or local unit of government. An
 23 enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not
 24 considered an additional fee relating to the provision of wireless 911
 25 service for purposes of this section.

26 ~~(e)~~ ~~(d)~~ A user is exempt from the fee if the user is any of the
 27 following:

28 (1) The federal government or an agency of the federal
 29 government.

30 (2) The state or an agency or instrumentality of the state.

31 (3) A political subdivision (as defined in IC 36-1-2-13) or an
 32 agency of a political subdivision.

33 (4) A user that accesses communications service solely through
 34 a wireless data only service plan.

35 ~~(f)~~ ~~(e)~~ This subsection applies to a ~~provider that is designated by the~~
 36 ~~Indiana utility regulatory commission~~ as an eligible
 37 telecommunications carrier for purposes of receiving reimbursement
 38 from the universal service fund through the administrator designated
 39 by the Federal Communications Commission. ~~A provider:~~ **An eligible**
 40 **telecommunications carrier:**

41 (1) is not considered an agency of the federal government for
 42 purposes of the exemption set forth in subsection ~~(e)~~; ~~(d)~~; and



1 (2) with respect to communications service provided to end users
 2 by the ~~provider~~ **eligible telecommunications carrier** in its
 3 capacity as an eligible telecommunications carrier, is liable for the
 4 ~~statewide 911~~ fee assessed under subsection ~~(g)~~: **(f)**.

5 ~~(g)~~ A provider described in subsection ~~(f)~~ shall pay to the board the
 6 following fees: ~~(1)~~ Not later than August 1, 2015, a fee equal to the
 7 product of the following factors: ~~(A)~~ The monthly statewide 911 fee
 8 established under subsection ~~(a)~~: ~~(B)~~ The number of unique end users
 9 for which the provider received reimbursement from the universal
 10 service fund during the immediately preceding month: ~~(C)~~ The number
 11 of months under the current service agreement between each end user
 12 described in clause ~~(B)~~ and the provider for which the provider has
 13 received reimbursement from the universal service fund before August
 14 1, 2015: ~~(2)~~ **(f)** Beginning September 1, 2015, and on the first day of
 15 each month thereafter, **an eligible telecommunications carrier**
 16 **described in subsection (e) shall pay to the board a monthly**
 17 **statewide 911** fee equal to the product of the following factors:

18 ~~(A)~~ **(1)** The monthly statewide 911 fee established under
 19 subsection ~~(a)~~.

20 ~~(B)~~ **(2)** The number of unique end users for which the ~~provider~~
 21 **eligible telecommunications carrier** received reimbursement
 22 from the universal service fund during the immediately preceding
 23 month.

24 The ~~provider~~ **eligible telecommunications carrier** may bill and collect
 25 from each end user the fees calculated under this ~~subdivision~~
 26 **subsection** with respect to the end user. The ~~provider~~ **eligible**
 27 **telecommunications carrier** shall determine the manner in which the
 28 provider bills and collects the fees. ~~A provider~~ **Except as provided in**
 29 **section 33(c) of this chapter, an eligible telecommunications carrier**
 30 may not bill and collect from an end user an amount greater than the
 31 fees paid by the ~~provider~~ **eligible telecommunications carrier** to the
 32 board with respect to the end user.

33 SECTION 9. IC 36-8-16.7-33, AS ADDED BY P.L.132-2012,
 34 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 33. (a) As part of the provider's normal
 36 monthly billing process, a provider:

37 (1) shall collect the fee from each standard user that is a customer
 38 having a place of primary use in Indiana; and

39 (2) may list the fee as a separate line item on each bill.

40 If a provider receives a partial payment for a monthly bill from a
 41 standard user, the provider shall apply the payment against the amount
 42 the standard user owes to the provider before applying the payment



1 against the fee. A provider may not prorate the monthly 911 fee
2 collected from a user.

3 (b) Subject to subsection (c), a provider shall remit statewide 911
4 fees collected under this section to the board at the time and in the
5 manner prescribed by the board. However, the board shall require a
6 provider to report to the board, no less frequently than on an annual
7 basis, the amount of fees collected from all of the provider's customers
8 described in subsection (a)(1) and remitted to the board under this
9 section. The board may require a provider to submit a report required
10 under this subsection at the same time that the provider remits fees to
11 the board under this section. The board shall deposit all remitted
12 statewide 911 fees in the fund.

13 (c) A provider, **including an eligible telecommunications carrier**
14 **under section 32(f) of this chapter**, may deduct and retain an amount
15 not to exceed one percent (1%) of ~~statewide 911~~ fees that the provider
16 collects from users **under section 32 of this chapter**, to reimburse the
17 direct costs incurred by the provider in collecting and remitting
18 ~~statewide 911~~ the fees.

19 SECTION 10. IC 36-8-16.7-34, AS ADDED BY P.L.132-2012,
20 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 34. The statewide 911 fee is the liability of the
22 user and not of a provider. However, **except as provided in section**
23 **33(c) of this chapter**, a provider is liable to remit to the board all
24 statewide 911 fees that the provider collects from users.

25 SECTION 11. **An emergency is declared for this act.**

