



February 29, 2016

ENGROSSED
SENATE BILL No. 213

DIGEST OF SB 213 (Updated February 26, 2016 10:52 am - DI 113)

Citations Affected: IC 36-8.

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. Makes a technical change.

Effective: Upon passage.

Hershman, Merritt,
Randolph Lonnie M

(HOUSE SPONSORS — KARICKHOFF, BROWN T)

January 6, 2016, read first time and referred to Committee on Tax & Fiscal Policy.
January 12, 2016, reported favorably — Do Pass.
January 19, 2016, read second time, ordered engrossed. Engrossed.
January 21, 2016, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Ways and Means.
February 29, 2016, amended, reported — Do Pass.

ES 213—LS 6296/DI 101



February 29, 2016

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.

ENGROSSED 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 36-8-16.6-11, AS AMENDED BY P.L.157-2015,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 11. (a) The board shall impose an enhanced
4 prepaid wireless charge on each retail transaction. Except as provided
5 in subsection (e), the amount of the charge is one dollar (\$1).
6 (b) The board may increase the enhanced prepaid wireless charge
7 to ensure adequate revenue for the board to fulfill its duties and
8 obligations under this chapter and IC 36-8-16.7. The following apply
9 to an increase in the enhanced prepaid wireless charge:
10 (1) The board may increase the charge only one (1) time after
11 June 30, 2015, and before July 1, 2020.
12 (2) The board may increase the charge only after review by the
13 budget committee.
14 (3) If the board increases the charge, the amount of the increase
15 must be ten cents (\$0.10).
16 (c) A consumer that is the federal government or an agency of the
17 federal government is exempt from the enhanced prepaid wireless

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1 charge imposed under this section.

2 (d) This subsection applies to a provider that is designated by the
3 Indiana utility regulatory commission as an eligible
4 telecommunications carrier for purposes of receiving reimbursement
5 from the universal service fund through the administrator designated
6 by the Federal Communications Commission. A provider:

7 (1) is not considered an agency of the federal government for
8 purposes of the exemption set forth in subsection (c); and

9 (2) with respect to prepaid wireless telecommunications service
10 provided to end users by the provider in its capacity as an eligible
11 telecommunications carrier, is liable for the enhanced prepaid
12 wireless charge imposed under subsection (e).

13 (e) ~~A provider described in subsection (d) shall pay to the board the~~
14 ~~following charges: (1) Not later than August 1, 2015, a one (1) time~~
15 ~~charge equal to the product of the following factors: (A) The enhanced~~
16 ~~prepaid wireless charge established under subsection (a). (B) The~~
17 ~~number of unique end users for which the provider received~~
18 ~~reimbursement from the universal service fund during the immediately~~
19 ~~preceding month. (C) The number of months under the current service~~
20 ~~agreement between each end user described in clause (B) and the~~
21 ~~provider for which the provider has received reimbursement from the~~
22 ~~universal service fund before August 1, 2015. (2) Beginning September~~
23 ~~1, 2015, and on the first day of each month thereafter, a provider~~
24 ~~described in subsection (d) shall pay to the board a charge equal to~~
25 ~~the product of the following factors:~~

26 ~~(A) (1) The enhanced prepaid wireless charge established under~~
27 ~~subsection (a).~~

28 ~~(B) (2) The number of unique end users for which the provider~~
29 ~~received reimbursement from the universal service fund during~~
30 ~~the immediately preceding month.~~

31 The provider may bill and collect from each end user the charges
32 calculated under this subdivision with respect to the end user. The
33 provider shall determine the manner in which the provider bills and
34 collects the charges. A provider may not bill and collect from an end
35 user an amount greater than the charges paid by the provider to the
36 board with respect to the end user.

37 SECTION 2. IC 36-8-16.7-24, AS AMENDED BY P.L.157-2015,
38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 24. (a) The statewide 911 board is established
40 to develop, implement, and oversee the statewide 911 system. The
41 board is a body corporate and politic, and though it is separate from the
42 state, the exercise by the board of its powers constitutes an essential



- 1 governmental function.
- 2 (b) The following recommendations must be made to the governor
- 3 concerning the membership of the board:
- 4 (1) The executive committees of:
- 5 (A) the Indiana chapter of the National Emergency Number
- 6 Association (NENA); and
- 7 (B) the Indiana chapter of the Association of Public Safety
- 8 Communication Officials International (APCO);
- 9 shall jointly recommend three (3) individuals, at least one (1) of
- 10 whom must have budget experience at the local level.
- 11 (2) The facilities based CMRS providers authorized to provide
- 12 CMRS in Indiana shall jointly recommend one (1) individual.
- 13 (3) The Indiana Association of County Commissioners shall
- 14 recommend one (1) individual who is a county commissioner in
- 15 Indiana.
- 16 (4) The Indiana Sheriffs' Association shall recommend one (1)
- 17 individual who is a county sheriff in Indiana.
- 18 (5) The Indiana Telecommunications Association, **or any**
- 19 **successor organization**, shall recommend two (2) individuals as
- 20 follows:
- 21 (A) One (1) individual representing a local exchange carrier
- 22 that serves less than fifty thousand (50,000) local exchange
- 23 access lines in Indiana.
- 24 (B) One (1) individual representing a local exchange carrier
- 25 that serves at least fifty thousand (50,000) local exchange
- 26 access lines in Indiana.
- 27 (6) The Indiana Cable Telecommunications Association shall
- 28 recommend one (1) individual representing a VOIP provider.
- 29 (7) The Indiana Association of Cities and Towns shall
- 30 recommend one (1) individual representing municipalities.
- 31 (c) The board consists of the following fifteen (15) members:
- 32 (1) The treasurer of state or the treasurer's designee. The treasurer
- 33 of state or the treasurer's designee is chairperson of the board for
- 34 a term concurrent with the treasurer of state's term of office.
- 35 However, the treasurer of state's designee serves at the pleasure
- 36 of the treasurer of state.
- 37 (2) Three (3) members for a term of three (3) years who are
- 38 appointed by the governor after considering the recommendations
- 39 submitted under subsection (b)(1) by the executive committees of
- 40 NENA and APCO. At least one (1) member appointed under this
- 41 subdivision must have budget experience at the local level.
- 42 (3) One (1) facilities based CMRS member who is appointed by



- 1 the governor after considering the recommendation submitted
2 under subsection (b)(2) by the facilities based CMRS providers
3 authorized to provide CMRS in Indiana. A member appointed
4 under this subdivision may not be affiliated with the same
5 business entity as a member appointed under subdivision (6), (7),
6 or (8).
- 7 (4) One (1) county commissioner member appointed by the
8 governor after considering the recommendation submitted under
9 subsection (b)(3) by the Indiana Association of County
10 Commissioners.
- 11 (5) One (1) county sheriff member appointed by the governor
12 after considering the recommendation submitted under subsection
13 (b)(4) by the Indiana Sheriffs' Association.
- 14 (6) One (1) member who represents a local exchange carrier that
15 serves less than fifty thousand (50,000) local exchange access
16 lines in Indiana and who is appointed by the governor after
17 considering the recommendation of the Indiana
18 Telecommunications Association, **or any successor**
19 **organization**, under subsection (b)(5)(A). A member appointed
20 under this subdivision may not be affiliated with the same
21 business entity as a member appointed under subdivision (3), (7),
22 or (8).
- 23 (7) One (1) member who represents a local exchange carrier that
24 serves at least fifty thousand (50,000) local exchange access lines
25 in Indiana and who is appointed by the governor after considering
26 the recommendation of the Indiana Telecommunications
27 Association, **or any successor organization**, under subsection
28 (b)(5)(B). A member appointed under this subdivision may not be
29 affiliated with the same business entity as a member appointed
30 under subdivision (3), (6), or (8).
- 31 (8) One (1) member who represents a VOIP provider and who is
32 appointed by the governor after considering the recommendation
33 of the Indiana Cable Telecommunications Association under
34 subsection (b)(6). A member appointed under this subdivision
35 may not be affiliated with the same business entity as a member
36 appointed under subdivision (3), (6), or (7).
- 37 (9) One (1) member who represents municipalities and is
38 appointed by the governor after considering the recommendation
39 of the Indiana Association of Cities and Towns submitted under
40 subsection (b)(7).
- 41 (10) The state fire marshal or the state fire marshal's designee.
- 42 (11) The superintendent of the state police department or the



1 superintendent's designee.
 2 (12) The executive director of the department of homeland
 3 security, or the executive director's designee. The executive
 4 director of the department of homeland security or the executive
 5 director's designee is a nonvoting member of the board.
 6 (13) The state GIS officer. The state GIS officer is a nonvoting
 7 member of the board.

8 (d) This subsection applies to a member appointed by the governor
 9 under subsection (c)(2) through (c)(9). The governor shall ensure that
 10 the terms of the initial members appointed by the governor are
 11 staggered so that the terms of not more than five (5) members expire in
 12 a single calendar year. After the initial appointments, subsequent
 13 appointments shall be for three (3) year terms. A vacancy on the board
 14 shall be filled for the vacating member's unexpired term in the same
 15 manner as the original appointment, and a member of the board is
 16 eligible for reappointment. In making an appointment under subsection
 17 (c)(2) through (c)(9), the governor shall take into account the various
 18 geographical areas of Indiana, including rural and urban areas. A
 19 member appointed by the governor serves at the pleasure of the
 20 governor.

21 (e) A member must be a resident of Indiana.
 22 (f) A member may not vote by proxy.

23 SECTION 3. IC 36-8-16.7-32, AS AMENDED BY P.L.157-2015,
 24 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 32. (a) Except as provided in subsections (c)
 26 and (e), and subject to subsection (b) and section 48(e) of this chapter,
 27 the board shall assess a monthly statewide 911 fee on each standard
 28 user that is a customer having a place of primary use in Indiana at a rate
 29 that:

30 (1) ensures full recovery of the amount needed for the board to
 31 make distributions to county treasurers consistent with this
 32 chapter; and
 33 (2) provides for the proper development, operation, and
 34 maintenance of a statewide 911 system.

35 Except as provided in subsection (g), the amount of the fee assessed
 36 under this subsection is one dollar (\$1).

37 (b) The board may adjust the statewide 911 fee to ensure adequate
 38 revenue for the board to fulfill the board's duties and obligations under
 39 this chapter, subject to the following:

40 (1) The following apply to an increase in the fee:
 41 (A) The board may increase the fee only one (1) time after
 42 June 30, 2015, and before July 1, 2020.



- 1 (B) The board may increase the fee only after review by the
2 budget committee.
- 3 (C) If the board increases the fee, the amount of the increase
4 must be ten cents (\$0.10).
- 5 (2) The fee may not be lowered more than one (1) time in a
6 calendar year.
- 7 (3) The fee may not be lowered by an amount that is more than
8 ten cents (\$0.10) without legislative approval.
- 9 (c) The fee assessed under this section does not apply to a prepaid
10 user in a retail transaction under IC 36-8-16.6.
- 11 (d) An additional fee relating to the provision of 911 service may
12 not be levied by a state agency or local unit of government. An
13 enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not
14 considered an additional fee relating to the provision of wireless 911
15 service for purposes of this section.
- 16 (e) A user is exempt from the fee if the user is any of the following:
17 (1) The federal government or an agency of the federal
18 government.
19 (2) The state or an agency or instrumentality of the state.
20 (3) A political subdivision (as defined in IC 36-1-2-13) or an
21 agency of a political subdivision.
22 (4) A user that accesses communications service solely through
23 a wireless data only service plan.
- 24 (f) This subsection applies to a provider that is designated by the
25 Indiana utility regulatory commission as an eligible
26 telecommunications carrier for purposes of receiving reimbursement
27 from the universal service fund through the administrator designated
28 by the Federal Communications Commission. A provider:
29 (1) is not considered an agency of the federal government for
30 purposes of the exemption set forth in subsection (e); and
31 (2) with respect to communications service provided to end users
32 by the provider in its capacity as an eligible telecommunications
33 carrier, is liable for the statewide 911 fee assessed under
34 subsection (g).
- 35 (g) A provider described in subsection (f) shall pay to the board the
36 following fees: ~~(1) Not later than August 1, 2015, a fee equal to the~~
37 ~~product of the following factors: (A) The monthly statewide 911 fee~~
38 ~~established under subsection (a). (B) The number of unique end users~~
39 ~~for which the provider received reimbursement from the universal~~
40 ~~service fund during the immediately preceding month. (C) The number~~
41 ~~of months under the current service agreement between each end user~~
42 ~~described in clause (B) and the provider for which the provider has~~



1 received reimbursement from the universal service fund before August
2 †, 2015. (2) Beginning September 1, 2015, and on the first day of each
3 month thereafter, a monthly statewide 911 fee equal to the product of
4 the following factors:

5 ~~(A)~~ (1) The monthly statewide 911 fee established under
6 subsection (a).

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

10 The provider may bill and collect from each end user the fees
11 calculated under this subdivision with respect to the end user. The
12 provider shall determine the manner in which the provider bills and
13 collects the fees. A provider may not bill and collect from an end user
14 an amount greater than the fees paid by the provider to the board with
15 respect to the end user.

16 SECTION 4. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Tax & Fiscal Policy, to which was referred Senate Bill No. 213, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 213 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 213, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 36-8-16.6-11, AS AMENDED BY P.L.157-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The board shall impose an enhanced prepaid wireless charge on each retail transaction. Except as provided in subsection (e), the amount of the charge is one dollar (\$1).

(b) The board may increase the enhanced prepaid wireless charge to ensure adequate revenue for the board to fulfill its duties and obligations under this chapter and IC 36-8-16.7. The following apply to an increase in the enhanced prepaid wireless charge:

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

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

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

(c) A consumer that is the federal government or an agency of the federal government is exempt from the enhanced prepaid wireless charge imposed under this section.

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

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(1) is not considered an agency of the federal government for purposes of the exemption set forth in subsection (c); and

(2) with respect to prepaid wireless telecommunications service provided to end users by the provider in its capacity as an eligible telecommunications carrier, is liable for the enhanced prepaid wireless charge imposed under subsection (e).

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

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

~~(B) (2) The number of unique end users for which the provider received reimbursement from the universal service fund during the immediately preceding month.~~

The provider may bill and collect from each end user the charges calculated under this subdivision with respect to the end user. The provider shall determine the manner in which the provider bills and collects the charges. A provider may not bill and collect from an end user an amount greater than the charges paid by the provider to the board with respect to the end user."

Delete pages 2 through 3.

Page 4, delete lines 1 through 7.

Page 6, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 3. IC 36-8-16.7-32, AS AMENDED BY P.L.157-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) Except as provided in subsections (c) and (e), and subject to subsection (b) and section 48(e) of this chapter, the board shall assess a monthly statewide 911 fee on each standard user that is a customer having a place of primary use in Indiana at a rate that:

(1) ensures full recovery of the amount needed for the board to



make distributions to county treasurers consistent with this chapter; and

(2) provides for the proper development, operation, and maintenance of a statewide 911 system.

Except as provided in subsection (g), the amount of the fee assessed under this subsection is one dollar (\$1).

(b) The board may adjust the statewide 911 fee to ensure adequate revenue for the board to fulfill the board's duties and obligations under this chapter, subject to the following:

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

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

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

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

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

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

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

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

(e) A user is exempt from the fee if the user is any of the following:

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

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

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

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

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

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



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

(g) A provider described in subsection (f) shall pay to the board the following fees: (1) Not later than August 1, 2015, a fee equal to the product of the following factors: (A) The monthly statewide 911 fee established under subsection (a). (B) The number of unique end users for which the provider received reimbursement from the universal service fund during the immediately preceding month. (C) The number of months under the current service agreement between each end user described in clause (B) and the provider for which the provider has received reimbursement from the universal service fund before August 1, 2015. (2) Beginning September 1, 2015, and on the first day of each month thereafter, a monthly statewide 911 fee equal to the product of the following factors:

(A) (1) The monthly statewide 911 fee established under subsection (a).

(B) (2) The number of unique end users for which the provider received reimbursement from the universal service fund during the immediately preceding month.

The provider may bill and collect from each end user the fees calculated under this subdivision with respect to the end user. The provider shall determine the manner in which the provider bills and collects the fees. A provider may not bill and collect from an end user an amount greater than the fees paid by the provider to the board with respect to the end user."

Delete pages 7 through 8.

Page 9, delete lines 1 through 24.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 213 as printed January 13, 2016.)

BROWN T

Committee Vote: yeas 21, nays 0.

