

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 ENROLLED ACT No. 213

AN ACT to amend the Indiana Code concerning local government.

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

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

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

(b) The term does not include a transaction in which an eligible telecommunications carrier receives Lifeline reimbursement from the universal service fund.

SECTION 3. 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 charge is not required to be paid by an eligible telecommunications carrier that is required to pay the monthly statewide 911 fee under IC 36-8-16.7-32 for the same transaction.** 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).

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

- (1) is not considered an agency of the federal government for purposes of the exemption set forth in subsection ~~(e)~~; **(b)**; and
- (2) with respect to prepaid wireless telecommunications service provided to end users by the ~~provider~~ **eligible telecommunications carrier** in its capacity as an eligible telecommunications carrier, is liable for the ~~enhanced prepaid wireless charge~~ imposed under subsection ~~(e)~~: **(d)**.

~~(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) **(d)** Beginning September 1, 2015, and on the first day of each month thereafter, an **eligible telecommunications carrier described in subsection (c)**



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 eligible telecommunications carrier** received reimbursement from the universal service fund during the immediately preceding month.

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

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

SECTION 5. IC 36-8-16.6-15, AS ADDED BY P.L.113-2010, SECTION 151, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A seller **or an eligible telecommunications carrier** may deduct and retain one percent (1%) of ~~enhanced prepaid wireless~~ charges that the seller **or eligible telecommunications carrier** collects from consumers **under section 11 or 12 of this chapter**, to reimburse the direct costs incurred by the seller **or eligible telecommunications carrier** in collecting and remitting ~~enhanced prepaid wireless the~~ charges.

SECTION 6. IC 36-8-16.7-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.7. As used in this chapter, "eligible telecommunications carrier" refers to a provider that is**



designated by the Indiana utility regulatory commission as an eligible telecommunications carrier for purposes of receiving Lifeline reimbursement from the universal service fund through the administrator designated by the Federal Communications Commission.

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

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

(1) The executive committees of:

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

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

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

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

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

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

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

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

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

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

(7) The Indiana Association of Cities and Towns shall recommend one (1) individual representing municipalities.

(c) The board consists of the following fifteen (15) members:



(1) The treasurer of state or the treasurer's designee. The treasurer of state or the treasurer's designee is chairperson of the board for a term concurrent with the treasurer of state's term of office. However, the treasurer of state's designee serves at the pleasure of the treasurer of state.

(2) Three (3) members for a term of three (3) years who are appointed by the governor after considering the recommendations submitted under subsection (b)(1) by the executive committees of NENA and APCO. At least one (1) member appointed under this subdivision must have budget experience at the local level.

(3) One (1) facilities based CMRS member who is appointed by the governor after considering the recommendation submitted under subsection (b)(2) by the facilities based CMRS providers authorized to provide CMRS in Indiana. A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (6), (7), or (8).

(4) One (1) county commissioner member appointed by the governor after considering the recommendation submitted under subsection (b)(3) by the Indiana Association of County Commissioners.

(5) One (1) county sheriff member appointed by the governor after considering the recommendation submitted under subsection (b)(4) by the Indiana Sheriffs' Association.

(6) One (1) member who represents a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association, **or any successor organization**, under subsection (b)(5)(A). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (7), or (8).

(7) One (1) member who represents a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association, **or any successor organization**, under subsection (b)(5)(B). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (8).

(8) One (1) member who represents a VOIP provider and who is



appointed by the governor after considering the recommendation of the Indiana Cable Telecommunications Association under subsection (b)(6). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (7).

(9) One (1) member who represents municipalities and is appointed by the governor after considering the recommendation of the Indiana Association of Cities and Towns submitted under subsection (b)(7).

(10) The state fire marshal or the state fire marshal's designee.

(11) The superintendent of the state police department or the superintendent's designee.

(12) The executive director of the department of homeland security, or the executive director's designee. The executive director of the department of homeland security or the executive director's designee is a nonvoting member of the board.

(13) The state GIS officer. The state GIS officer is a nonvoting member of the board.

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

(e) A member must be a resident of Indiana.

(f) A member may not vote by proxy.

SECTION 8. 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)~~ **(b)** and ~~(e)~~; **(d)**, 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)~~ **that** 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.

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

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

~~A provider:~~ **An eligible telecommunications carrier:**

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

(2) with respect to communications service provided to end users by the ~~provider~~ **eligible telecommunications carrier** in its



capacity as an eligible telecommunications carrier, is liable for the statewide 911 fee assessed under subsection ~~(g)~~: **(f)**.

~~(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)~~ **(f)** Beginning September 1, 2015, and on the first day of each month thereafter, **an eligible telecommunications carrier described in subsection (e) shall pay to the board 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 eligible telecommunications carrier** received reimbursement from the universal service fund during the immediately preceding month.

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

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

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

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

If a provider receives a partial payment for a monthly bill from a standard user, the provider shall apply the payment against the amount the standard user owes to the provider before applying the payment against the fee. A provider may not prorate the monthly 911 fee collected from a user.



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

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

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

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



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

