



## 2013 ASSEMBLY BILL 99

March 26, 2013 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Energy and Utilities.

1     **AN ACT to repeal** 256.35 (1) (d) and 256.35 (3) (b), (c), (d), (e), (f), (g), (i) and (j);  
2             **to renumber** 256.35 (1) (a); **to amend** 15.01 (4), 196.025 (6) (b) 1. and 2.,  
3             196.025 (6) (c) 3., 256.35 (3) (title), 256.35 (3) (a) 4., 256.35 (3) (h) and 256.35  
4             (4); and **to create** 256.35 (1) (cp), 256.35 (1) (ct), 256.35 (3) (a) 2m., 256.35 (3)  
5             (bm), 256.35 (3) (cm), 256.35 (3) (dm) and 256.35 (3) (em) of the statutes;  
6             **relating to:** funding for the state 911 telecommunications system and granting  
7             rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on 911 Communications.

This bill directs that any revenue generated annually by the police and fire protection fee (s. 196.025 (6), stats.) in excess of the average of revenue generated by this fee during the 2010-11 and 2011-12 fiscal years, is to be appropriated for the state 911 grants created under 2013 LRB-0922.

**ASSEMBLY BILL 99**

The bill also revises the countywide 911 telecommunications service fee under s. 256.35 (3), stats. Under current law, this fee may be imposed by counties to pay for 911 telecommunications costs associated with landline 911 telecommunications service. The fee amount is established on a county-by-county basis subject to certain caps, which generally allows a fee of no more than \$0.40 per landline service connection per month. The bill applies this fee statewide on all active communications service connections (voice or nonvoice) capable of accessing a public safety answering point. The bill allows the Public Service Commission (PSC) to contract with the department of revenue for collection of this fee. County imposition of the fee would no longer be allowed.

The fee is capped and initially set at \$0.40 per month per connection for most types of connections. The bill authorizes the PSC to issue annual orders decreasing or increasing the fee. However, the PSC may issue such an order only at the direction of the state 911 council and with the approval of the governor. Also, an order may not increase a fee above the amounts initially set by the bill, except to adjust for inflation.

2013 LRB-0923 directs that the revenues collected under this fee would be used to pay for a staff position at the PSC and for the PSC's administrative costs associated with providing for state 911 telecommunications service. Revenues collected under this fee would also be used to pay for state 911 telecommunications service as provided for in contracts between the PSC and 911 telecommunications service providers, and pursuant to price schedules filed with the PSC by communications providers. These telecommunications costs would include those associated with wireless and landline 911 telecommunications service. Fees not used for these purposes would be transferred to the state 911 grant program created under 2013 LRB-0922.

1           **SECTION 1.** 15.01 (4) of the statutes is amended to read:

2           15.01 (4) “Council” means a part-time body appointed to function on a  
3 continuing basis for the study, and recommendation of solutions and policy  
4 alternatives, of the problems arising in a specified functional area of state  
5 government, except the Milwaukee River revitalization council has the powers and  
6 duties specified in s. 23.18, the council on physical disabilities has the powers and  
7 duties specified in s. 46.29 (1) and (2), the state council on alcohol and other drug  
8 abuse has the powers and duties specified in s. 14.24, ~~and the electronic recording~~  
9 ~~council has the powers and duties specified in s. 706.25 (4), and the state 911 council~~  
10 has the powers and duties specified in ss. 16.9647 (2) and 256.35 (3) (cm) 1.

11           **SECTION 2.** 196.025 (6) (b) 1. and 2. of the statutes are amended to read:

12           196.025 (6) (b) 1. Except as provided in subd. 2., a communications provider  
13 shall impose a monthly fee of \$0.75 on each communications service connection with  
14 an assigned telephone number, including a communication service provided via a

**ASSEMBLY BILL 99**

1 voice over Internet protocol connection. If a communications provider provides  
2 multiple communications service connections to a subscriber, the communications  
3 provider shall impose a separate fee under this subdivision on each of the first 10  
4 connections and one additional fee for each 10 additional connections per billed  
5 account. A communications provider may list the fee separately from other charges  
6 on a subscriber's bill, and if a communications provider does so, the communications  
7 provider shall identify the fee as "police and fire protection fee," or, if the  
8 communications provider combines the fee with a ~~charge fee~~ imposed under s. 256.35  
9 (3) (bm), the communications provider shall identify the combined fee ~~and charge~~  
10 fees as "charge for funding ~~countywide~~ state 911 systems plus police and fire  
11 protection fee." Any partial payment of a fee by a subscriber shall first be applied  
12 to any amount the subscriber owes the communications provider for communications  
13 service.

14 2. A communications provider that offers a prepaid wireless  
15 telecommunications plan, or a retailer that offers such a plan on behalf of a  
16 communications provider, shall impose a fee equal to \$0.38 on each retail transaction  
17 for such a plan that occurs in this state. A communications provider or retailer may  
18 state the amount of the fee separately on a bill for the retail transaction, and if a  
19 communications provider or retailer does so, the communications provider or retailer  
20 shall identify the fee as "police and fire protection fee."" or, if the communications  
21 provider combines the fee with a fee imposed under s. 256.35 (3) (bm), the  
22 communications provider shall identify the combined fees as "charge for funding  
23 state 911 systems plus police and fire protection fee."

24 **SECTION 3.** 196.025 (6) (c) 3. of the statutes is amended to read:

**ASSEMBLY BILL 99**

1           196.025 (6) (c) 3. The commission and department shall deposit all fees  
2 remitted under subds. 1. and 2. into the police and fire protection fund, except that,  
3 if more than \$54,089,000 in fees are remitted in a fiscal year, the amount exceeding  
4 \$54,089,000 shall be credited to the appropriation account under s. 20.505 (6) (hm).

NOTE: This provision of the bill would direct that all funding collected under the police and fire protection fee in excess of the average collected in the last 2 fiscal years be appropriated for the state 911 grants created under 2013 LRB-0922. Collections under the police and fire protection fee were \$51,897,000 in 2010-11 and \$56,281,000 in 2011-12.

5           **SECTION 4.** 256.35 (1) (a) of the statutes is renumbered 256.35 (1) (as).

6           **SECTION 5.** 256.35 (1) (cp) of the statutes is created to read:

7           256.35 (1) (cp) “Communications provider” means a person that provides active  
8 voice or nonvoice communications service that is capable of accessing a public safety  
9 answering point.

10          **SECTION 6.** 256.35 (1) (ct) of the statutes is created to read:

11          256.35 (1) (ct) “Communications service” means active voice or nonvoice  
12 communications service that is capable of accessing a public safety answering point.

13          **SECTION 7.** 256.35 (1) (d) of the statutes is repealed.

14          **SECTION 8.** 256.35 (3) (title) of the statutes is amended to read:

15          256.35 (3) (title) ~~FUNDING FOR COUNTYWIDE SYSTEMS~~ STATE 911 SYSTEM.

16          **SECTION 9.** 256.35 (3) (a) 2m. of the statutes is created to read:

17          256.35 (3) (a) 2m. “Department” means the department of revenue.

18          **SECTION 10.** 256.35 (3) (a) 4. of the statutes is amended to read:

19          256.35 (3) (a) 4. “Service user” means any person who is provided telephone  
20 communications service by a ~~service supplier which includes access to a basic or~~  
21 ~~sophisticated system~~ communications provider.

**ASSEMBLY BILL 99**

1           **SECTION 11.** 256.35 (3) (b), (c), (d), (e), (f), (g), (i) and (j) of the statutes are  
2 repealed.

3           **SECTION 12.** 256.35 (3) (bm) of the statutes is created to read:

4           256.35 (3) (bm) *Fee imposed.* 1. Except as provided in subd. 2., a  
5 communications provider shall impose a monthly fee of \$0.40, subject to any  
6 adjustment under par. (cm), on each communications service connection, including  
7 a communication service provided via a voice over Internet protocol connection. If a  
8 communications provider provides multiple communications service connections to  
9 a service user, the communications provider shall impose a separate fee under this  
10 subdivision on each of the first 10 connections and one additional fee for each 10  
11 additional connections per billed account. A communications provider may list the  
12 fee separately from other charges on a service user's bill, and if a communications  
13 provider does so, the communications provider shall identify the fee as "state 911  
14 fee," or, if the communications provider combines the fee with a fee imposed under  
15 s. 196.025 (6), the communications provider shall identify the combined fees as  
16 "charge for funding state 911 systems plus police and fire protection fee." Any partial  
17 payment of a fee by a service user shall first be applied to any amount the service user  
18 owes the communications provider for communications service.

19           2. A communications provider that offers a prepaid wireless  
20 telecommunications plan, or a retailer that offers such a plan on behalf of a  
21 communications provider, shall impose a fee equal to \$0.20, subject to any  
22 adjustment under par. (cm), on each retail transaction for such a plan that occurs in  
23 this state. A communications provider or retailer may state the amount of the fee  
24 separately on a bill for the retail transaction, and if a communications provider or  
25 retailer does so, the communications provider or retailer shall identify the fee as

**ASSEMBLY BILL 99**

1 “state 911 fee,” or, if the communications provider combines the fee with a fee  
2 imposed under s. 196.025 (6), the communications provider shall identify the  
3 combined fees as “charge for funding state 911 systems plus police and fire protection  
4 fee.”

5 **SECTION 13.** 256.35 (3) (cm) of the statutes is created to read:

6 256.35 (3) (cm) *Fee adjustments.* 1. The commission may annually issue an  
7 order decreasing or increasing the amount of the fee required under par. (bm), but  
8 only as specified in subd. 2. and only if directed by the the state 911 council under  
9 s. 16.9647 (2) (i) and approved by the governor.

10 2. a. An order under subd. 1. may not decrease the fee below the amount  
11 necessary to generate sufficient revenue for the appropriation under s. 20.155 (3) (g).

12 b. An order under subd. 1. may increase the fee to reflect adjustments to the  
13 U.S. consumer price index for all urban consumers, U.S. city average, as determined  
14 by the federal department of labor. The commission shall advise the state 911 council  
15 on the increases that are allowed under this subd. 2. b.

16 c. For the fee required under par. (bm) 1., an order under subd. 1. may increase  
17 the fee to no more than \$0.40 per month with an adjustment described in subd. 2. b.,  
18 and except that, for the fee required under par. (bm) 2., an order under subd. 1. may  
19 increase the fee to no more than \$0.20 per retail transaction with an adjustment  
20 described in subd. 2. b.

21 3. No later than October 1 of each year, the commission shall notify  
22 communications providers and sellers who offer prepaid wireless on behalf of  
23 communications providers of any order issued under subd. 1. for that year and any  
24 decrease or increase to the fee allowed under par. (bm) that is specified in the order  
25 shall be effective on January 1 of the following year.

**ASSEMBLY BILL 99**

1           **SECTION 14.** 256.35 (3) (dm) of the statutes is created to read:

2           256.35 (3) (dm) *Fee remittance.* 1. Except as provided in subd. 2., no later than  
3 the first calendar month following the calendar month in which a communications  
4 provider or retailer receives from a service user a fee imposed under par. (bm), the  
5 communications provider or retailer shall remit the fee to the commission.

6           2. The commission may contract with the department for the collection of fees  
7 imposed under par. (bm). If the commission and department enter into such a  
8 contract, all of the following apply:

9           a. No later than the first calendar month following the calendar month in which  
10 a communications provider or retailer receives from a service user a fee that is  
11 subject to the contract, the communications provider or retailer shall remit the fee  
12 to the department.

13           b. The department may require communications providers and retailers to  
14 register with the department and file returns in the manner prescribed by the  
15 department.

16           c. Section 77.59 (1) to (6), (8), and (8m), as it applies to the taxes imposed under  
17 subch. III of ch. 77, applies to the fees that are subject to the contract.

18           **SECTION 15.** 256.35 (3) (em) of the statutes is created to read:

19           256.35 (3) (em) *Commission powers.* The commission may do any of the  
20 following:

21           1. Promulgate rules for administering this subsection.

22           2. Bring an action to collect any amount that is required to be remitted under  
23 par. (dm).

24           **SECTION 16.** 256.35 (3) (h) of the statutes is amended to read:

