

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4071

**FISCAL
NOTE**

BY DELEGATE LITTLE

[Introduced January 08, 2020; Referred to the
Committee on Veterans' Affairs and Homeland
Security then Finance]

1 A BILL to amend and reenact §7-1-3cc of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §24-6-6b of said code, all relating to the authority of county
 3 commissions to establish enhanced emergency telephone systems and change the fee
 4 charged to consumers from the telephone service to the electric service, and to the
 5 wireless enhanced 911 fee; eliminating portions of the wireless enhanced 911 fee that are
 6 disbursed to state agencies; establishing the public safety wireless fee; and providing for
 7 the collection and disbursement of the public safety wireless fee.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3cc. Authority of county commissions to establish enhanced emergency telephone systems, technical and operational standards for emergency communications centers and standards for education and training of emergency communications systems personnel; standards for alarm systems; fee upon consumers of ~~telephone~~ electric service for the systems and for roadway conversion systems; authority to contract with the ~~telephone~~ electric companies for billing of fee.

1 (a) In addition to possessing the authority to establish an emergency telephone system
 2 pursuant to §24-6-4 of this code, a county commission or the county commissions of two or more
 3 counties may, instead, establish an enhanced emergency telephone system or convert an existing
 4 system to an enhanced emergency system. The establishment of such a system shall be subject
 5 to the provisions of article six of said chapter. The county commission may adopt rules after
 6 receiving recommendations from the West Virginia Enhanced 911 Council concerning the
 7 operation of all county emergency communications centers or emergency telephone systems
 8 centers in the state, including, but not limited to, recommendations for:

9 (1) Minimum standards for emergency telephone systems and emergency
 10 communications centers;

11 (2) Minimum standards for equipment used in any center receiving telephone calls of an
12 emergency nature and dispatching emergency service providers in response to that call and
13 which receives 911 moneys or has basic 911 service funded through its county commission; and

14 (3) Minimum standards for education and training of all personnel in emergency
15 communications centers.

16 (b) A county commission may impose a fee upon consumers of ~~local exchange~~ electric
17 service within that county for an enhanced emergency telephone system and associated
18 electronic equipment and for the conversion of all rural routes to city-type addressing as provided
19 in section three of this article. The fee revenues may only be used solely and directly for the
20 capital, installation, administration, operation and maintenance costs of the enhanced emergency
21 telephone system and of the conversion to city-type addressing and including the reasonable
22 costs associated with establishing, equipping, furnishing, operating or maintaining a county
23 answering point. ~~Effective on July 1, 2006, all county enhanced emergency telephone system~~
24 ~~fees that are in effect as of July 1, 2006, and as such may later be modified by action of a county~~
25 ~~commission, shall be imposed upon in-state subscribers to voice over Internet protocol (VoIP)~~
26 ~~service, as VoIP service is defined by the Federal Communications Commission of the United~~
27 ~~States. A nonbusiness VoIP service subscriber shall be considered in-state if the primary~~
28 ~~residence of the subscriber is located within West Virginia. A business subscriber shall be~~
29 ~~considered in-state if the site at which the service is primarily used is located within West Virginia.~~
30 ~~The Public Service Commission may, as it deems appropriate and in accordance with the~~
31 ~~requirements of due process, issue and enforce orders, as well as adopt and enforce rules,~~
32 ~~dealing with matters concerning the imposition of county enhanced emergency telephone system~~
33 ~~fees upon VoIP service subscribers~~

34 (c) A county commission may contract with the ~~telephone~~ electric company or companies
35 providing ~~local exchange~~ electric service within the county for the ~~telephone~~ electric company or
36 companies to act as the billing agent or agents of the county commission for the billing of the fee

37 imposed pursuant to subsection (b) of this section. The cost for the billing agent services may be
 38 included as a recurring maintenance cost of the enhanced emergency telephone system.

39 Where a county commission has contracted with ~~a telephone~~ an electric company to act
 40 as its billing agent for enhanced emergency telephone system fees, all competing ~~local-exchange~~
 41 ~~telephone~~ electric companies with customers in that county shall bill the enhanced emergency
 42 telephone system fees to its respective customers located in that county and shall remit the fee.
 43 It may deduct its respective costs for billing in the same manner as the acting billing agent for the
 44 enhanced emergency telephone system fee.

45 (d) A county commission of any county with an emergency communications center or
 46 emergency telephone system may establish standards and penalties for alarm systems, including
 47 security, fire and medical alarms.

48 (e) The books and records of all county answering points that benefit from the imposition
 49 of the local exchange service fees shall be subject to annual examination by the State Auditor's
 50 office.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee.

1 (a) All CMRS providers as defined in §24-6-2 of this code shall, on a monthly basis or
 2 otherwise for good cause and as directed by order of the Public Service Commission, collect from
 3 each of their in-state two-way service subscribers a wireless enhanced 911 fee and a public safety
 4 fee. As used in this section "in-state two-way service subscriber" ~~shall have~~ has the same meaning
 5 as that set forth in the rules of the Public Service Commission. No later than June 1, 2006, the
 6 Public Service Commission shall, after the receipt of comments and the consideration of evidence
 7 presented at a hearing, issue an updated order which directs the CMRS providers regarding all
 8 relevant details of wireless enhanced 911 and public safety wireless fee collection, including the

9 determination of who is considered an in-state two-way service subscriber and which shall specify
10 how the CMRS providers shall deal with fee collection shortfalls caused by uncollectible accounts.
11 The Public Service Commission shall solicit the views of the wireless telecommunications utilities
12 prior to issuing the order.

13 (b) The wireless enhanced 911 fee is ~~\$3~~ \$3.47 per month for each valid retail commercial
14 mobile radio service subscription, as that term is defined by the Public Service Commission in its
15 order issued under subsection (a) of this section. ~~Provided, That beginning on July 1, 2005, the~~
16 ~~wireless enhanced 911 fee shall include 10¢ to be distributed to the West Virginia State Police to~~
17 ~~be used for equipment upgrades for improving and integrating their communication efforts with~~
18 ~~those of the enhanced 911 systems: Provided, however, That for the fiscal year beginning on July~~
19 ~~1, 2005, and for every fiscal year thereafter, \$1,000,000 of the wireless enhanced 911 fee shall~~
20 ~~be distributed by the Public Service Commission to subsidize the construction of towers. The~~
21 ~~moneys shall be deposited in a fund administered by the West Virginia Public Service~~
22 ~~Commission, entitled Enhanced 911 Wireless Tower Access Assistance Fund, and shall be~~
23 ~~expended in accordance with an enhanced 911 wireless tower access matching grant order~~
24 ~~adopted by the Public Service Commission. The commission order shall contain terms and~~
25 ~~conditions designed to provide financial assistance loans or grants to state agencies, political~~
26 ~~subdivisions of the state and wireless telephone carriers for the acquisition, equipping and~~
27 ~~construction of new wireless towers, which would provide enhanced 911 service coverage and~~
28 ~~which would not be available otherwise due to marginal financial viability of the applicable tower~~
29 ~~coverage area: Provided further, That the grants shall be allocated among potential sites based~~
30 ~~on application from county commissions demonstrating the need for enhanced 911 wireless~~
31 ~~coverage in specific areas of this state. Any tower constructed with assistance from the fund~~
32 ~~created by this subdivision shall be available for use by emergency services, fire departments~~
33 ~~and law enforcement agencies communication equipment, so long as that use does not interfere~~
34 ~~with the carrier's wireless signal: And provided further, That the Public Service Commission shall~~

35 ~~promulgate rules in accordance with article three, chapter twenty-nine-a of this code to effectuate~~
36 ~~the provisions of this subsection. The Public Service Commission is specifically authorized to~~
37 ~~promulgate emergency rules: *And provided further,* That for the fiscal year beginning on July 1,~~
38 ~~2006, and for every fiscal year thereafter, five percent of the wireless enhanced 911 fee money~~
39 ~~received by the Public Service Commission shall be deposited in a special fund established by~~
40 ~~the Division of Homeland Security and Emergency Management to be used solely for the~~
41 ~~construction, maintenance and upgrades of the West Virginia Interoperable Radio Project and~~
42 ~~any other costs associated with establishing and maintaining the infrastructure of the system. Any~~
43 ~~funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for~~
44 ~~the following year~~ The public safety wireless fee is 39 cents per month for each valid retail
45 commercial mobile radio service subscription, as that term is defined by the Public Service
46 Commission in its order issued under 24-6-6b(a) of this code.

47 (c) Beginning in the year 1997 2022, and every two years thereafter, the Public Service
48 Commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the
49 fee so that it is the weighted average rounded to the nearest penny, as of March 1 of the
50 respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted
51 an enhanced 911 ordinance: *Provided*, That the wireless enhanced 911 fee may never be
52 increased by more than 25 percent of its value at the beginning of the respecification year:
53 *Provided, however*, That the fee may never be less than the amount set in subsection (b) of this
54 section. ~~*Provided further*, That beginning on July 1, 2005, the wireless enhanced 911 fee shall~~
55 ~~include 10¢ to be distributed to the West Virginia State Police to be used for equipment upgrades~~
56 ~~for improving and integrating their communication efforts with those of the enhanced 911 systems:~~
57 ~~*And provided further*, That beginning on July 1, 2005, \$1,000,000 of the wireless enhanced 911~~
58 ~~fee shall be distributed by the Public Service Commission to subsidize the construction of wireless~~
59 ~~towers as specified in said subsection~~

60 (d) The CMRS providers shall, after retaining a three-percent billing fee, send the wireless

61 enhanced 911 fee and public safety wireless moneys collected, on a monthly basis, to the Public
62 Service Commission. The Public Service Commission shall, on a quarterly and approximately
63 evenly staggered basis, disburse the fee and wireless enhanced 911 revenue in the following
64 manner:

65 (1) Each county that does not have a 911 ordinance in effect as of the original effective
66 date of this section in the year 1997 or has enacted a 911 ordinance within the five years prior to
67 the original effective date of this section in the year 1997 shall receive eight and one-half tenths
68 of one percent of the fee revenues received by the Public Service Commission: *Provided, That*
69 after the effective date of this section, in the year 2005, when two or more counties consolidate
70 into one county to provide government services, the consolidated county shall receive one percent
71 of the fee revenues received by the Public Service Commission for itself and for each county
72 merged into the consolidated county. Each county shall receive eight and one-half tenths of one
73 percent of the remainder of the fee revenues received by the Public Service Commission:
74 *Provided, however, That* after the effective date of this section, in the year 2005, when two or
75 more counties consolidate into one county to provide government services, the consolidated
76 county shall receive one percent of the fee revenues received by the Public Service Commission
77 for itself and for each county merged into the consolidated county. Then, from any moneys
78 remaining, each county shall receive a pro rata portion of that remainder based on that county's
79 population as determined in the most recent decennial census as a percentage of the state total
80 population. The Public Service Commission shall recalculate the county disbursement
81 percentages on a yearly basis, with the changes effective on July 1, and using data as of the
82 preceding first day of March. The public utilities which normally provide local exchange
83 telecommunications service by means of lines, wires, cables, optical fibers or by other means
84 extended to subscriber premises shall supply the data to the Public Service Commission on a
85 county specific basis no later than June 1 of each year;

86 (2) Counties which have an enhanced 911 ordinance in effect shall receive their share of

87 - the wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee
88 revenues received by those counties pursuant to their enhanced 911 ordinances;

89 (3) The Public Service Commission shall deposit the wireless enhanced 911 fee revenue
90 for each county which does not have an enhanced 911 ordinance in effect into an escrow account
91 which it has established for that county. Any county with an escrow account may, immediately
92 upon adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the
93 escrow account for use as specified in subdivision (2) of this subsection: *Provided*, That a county
94 that adopts a 911 ordinance after the original effective date of this section in the year 1997 or has
95 adopted a 911 ordinance within five years of the original effective date of this section in the year
96 1997 shall continue to receive one percent of the total 911 fee revenue for a period of five years
97 following the adoption of the ordinance. Thereafter, each county shall receive that county's eight
98 and one-half tenths of one percent of the remaining fee revenue, plus that county's additional pro
99 rata portion of the fee revenues then remaining, based on that county's population as determined
100 in the most recent decennial census as a percentage of the state total population: *Provided*,
101 *however*, That every five years from the year 1997, all fee revenue residing in escrow accounts
102 shall be disbursed on the pro rata basis specified in subdivision (1) of this subsection, except that
103 data for counties without enhanced 911 ordinances in effect shall be omitted from the calculation
104 and all escrow accounts shall begin again with a zero balance.

105 (e) The Public Service Commission shall, on a quarterly and approximately evenly
106 staggered basis. disburse the public safety wireless fee revenue in the following manner:

107 (1) Ten cents of each month's fee collected shall be distributed to the West Virginia State
108 Police to be used for equipment upgrades for improving and integrating their communication
109 efforts with those of the enhanced 911 systems;

110 (2) Nineteen cents of each month's fee collected shall be deposited in a special fund
111 established by the Division of Homeland Security and Emergency Management to be used solely
112 for the construction. maintenance and upgrades of the West Virginia Interoperable Radio Project

113 and any other costs associated with establishing and maintaining the infrastructure of the system.
114 Any funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated
115 for the following year; and

116 (3) Ten cents of each monthly fee collected shall be deposited in a fund administered by
117 the Public Service Commission, entitled the Enhanced 911 Wireless Tower Access Assistance
118 Fund, and distributed to subsidize the construction of wireless towers. The moneys shall be
119 expended in accordance with an enhanced 911 wireless tower access matching grant order
120 adopted by the Public Service Commission. The commission order shall contain terms and
121 conditions designed to provide financial assistance loans or grants to state agencies, political
122 subdivisions of the state and wireless telephone carriers for the acquisition, equipping and
123 construction of new wireless towers, which would provide enhanced 911 service coverage and
124 which would not be available otherwise due to marginal financial viability of the applicable tower
125 coverage area: *Provided*, That the grants shall be allocated among potential sites based on
126 application from county commissions demonstrating the need for enhanced 911 wireless
127 coverage in specific areas of this state. Any tower constructed with assistance from the fund
128 created by this subdivision shall be available for use by emergency services, fire departments
129 and law-enforcement agencies communication equipment, so long as that use does not interfere
130 with the carrier's wireless signal.

131 ~~(e)~~(f) CMRS providers have the same rights and responsibilities as other telephone
132 service suppliers in dealing with the failure by a subscriber of a CMRS provider to timely pay the
133 wireless enhanced 911 fee.

134 ~~(f)~~(g) Notwithstanding the provisions of section one-a of this article, for the purposes of
135 this section, the term "county" means one of the counties provided in §1-1-1 of this code.

136 ~~(g) From any funds distributed to a county pursuant to this section, a total of three percent~~
137 ~~shall be set aside in a special fund to be used exclusively for the purchase of equipment that will~~
138 ~~provide information regarding the x and y coordinates of persons who call an emergency~~

139 ~~telephone system through a commercial mobile radio service: *Provided*, That upon purchase of~~
140 ~~the necessary equipment, the special fund shall be dissolved and any surplus shall be used for~~
141 ~~general operation of the emergency telephone system as may otherwise be provided by law~~

142 (h) Notwithstanding anything to the contrary in this code, ~~beginning July 1, 2008~~ prepaid
143 wireless calling service is ~~no longer~~ subject to the wireless enhanced 911 fee or the public safety
144 wireless fee.

145 (i) The Public Service Commission shall propose rules for legislative approval in
146 accordance with §29A-3-1 et seq. of this code to effectuate the provisions of this section. The
147 Public Service Commission may promulgate emergency rules pursuant to the provisions of §29A-
148 3-15 of this code.

NOTE: The purpose of this bill is to authorize enhanced emergency telephone systems, and to make changes relating to the collection, allocation, establishment or elimination of certain fees.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.