

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2729**

BY DELEGATES FRICH, STORCH, BUTLER, HOUSEHOLDER,

ELLINGTON, BLAIR AND ANDERSON

[Introduced February 28, 2017; Referred

to the Committee on Finance.]

1 A BILL to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended, relating  
 2 to giving the West Virginia State Police an additional 15¢ from the wireless enhanced 911  
 3 fee to be used for the operation of its forensic laboratory.

*Be it enacted by the Legislature of West Virginia:*

1 That §24-6-6b of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.**

**§24-6-6b. Wireless enhanced 911 fee.**

1 (a) All CMRS providers as defined in section two of this article shall, on a monthly basis  
 2 or otherwise for good cause and as directed by order of the Public Service Commission, collect  
 3 from each of their in-state two-way service subscribers a wireless enhanced 911 fee. As used in  
 4 this section "in-state two-way service subscriber" shall have the same meaning as that set forth  
 5 in the rules of the Public Service Commission. No later than June 1, 2006, the Public Service  
 6 Commission shall, after the receipt of comments and the consideration of evidence presented at  
 7 a hearing, issue an updated order which directs the CMRS providers regarding all relevant details  
 8 of wireless enhanced 911 fee collection, including the determination of who is considered an in-  
 9 state two-way service subscriber and which shall specify how the CMRS providers shall deal with  
 10 fee collection shortfalls caused by uncollectible accounts. The Public Service Commission shall  
 11 solicit the views of the wireless telecommunications utilities prior to issuing the order.

12 (b) The wireless enhanced 911 fee is \$3 per month for each valid retail commercial mobile  
 13 radio service subscription, as that term is defined by the Public Service Commission in its order  
 14 issued under subsection (a) of this section: *Provided*, That beginning on July 1, 2005, the wireless  
 15 enhanced 911 fee shall include 10¢ to be distributed to the West Virginia State Police to be used  
 16 for equipment upgrades for improving and integrating their communication efforts with those of  
 17 the enhanced 911 systems: *Provided, however, That beginning on July 1, 2017, the wireless*  
 18 *enhanced 911 fee shall include 15¢ to be distributed to the West Virginia State Police to be used*

19 for the operation of its forensic laboratory: *Provided, however further,* That for the fiscal year  
20 beginning on July 1, 2005, and for every fiscal year thereafter, \$1 million of the wireless enhanced  
21 911 fee shall be distributed by the Public Service Commission to subsidize the construction of  
22 towers. The moneys shall be deposited in a fund administered by the West Virginia Public Service  
23 Commission, entitled Enhanced 911 Wireless Tower Access Assistance Fund, and shall be  
24 expended in accordance with an enhanced 911 wireless tower access matching grant order  
25 adopted by the Public Service Commission. The commission order shall contain terms and  
26 conditions designed to provide financial assistance loans or grants to state agencies, political  
27 subdivisions of the state and wireless telephone carriers for the acquisition, equipping and  
28 construction of new wireless towers, which would provide enhanced 911 service coverage and  
29 which would not be available otherwise due to marginal financial viability of the applicable tower  
30 coverage area: *Provided further,* That the grants shall be allocated among potential sites based  
31 on application from county commissions demonstrating the need for enhanced 911 wireless  
32 coverage in specific areas of this state. Any tower constructed with assistance from the fund  
33 created by this subdivision shall be available for use by emergency services, fire departments  
34 and law-enforcement agencies communication equipment, so long as that use does not interfere  
35 with the carrier's wireless signal: *And provided further,* That the Public Service Commission shall  
36 promulgate rules in accordance with article three, chapter twenty-nine-a of this code to effectuate  
37 the provisions of this subsection. The Public Service Commission is specifically authorized to  
38 promulgate emergency rules: *And provided further,* That for the fiscal year beginning on July 1,  
39 2006, and for every fiscal year thereafter, five percent of the wireless enhanced 911 fee money  
40 received by the Public Service Commission shall be deposited in a special fund established by  
41 the Division of Homeland Security and Emergency Management to be used solely for the  
42 construction, maintenance and upgrades of the West Virginia Interoperable Radio Project and  
43 any other costs associated with establishing and maintaining the infrastructure of the system. Any  
44 funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for

45 the following year.

46 (c) Beginning in the year 1997, and every two years thereafter, the Public Service  
47 Commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the  
48 fee so that it is the weighted average rounded to the nearest penny, as of March 1 of the  
49 respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted  
50 an enhanced 911 ordinance: *Provided*, That the wireless enhanced 911 fee may never be  
51 increased by more than twenty-five percent of its value at the beginning of the respecification  
52 year: *Provided, however*, That the fee may never be less than the amount set in subsection (b) of  
53 this section: *Provided further*, That beginning on July 1, 2005, the wireless enhanced 911 fee  
54 shall include 10¢ to be distributed to the West Virginia State Police to be used for equipment  
55 upgrades for improving and integrating their communication efforts with those of the enhanced  
56 911 systems: *And provided further*, That beginning on July 1, 2005, ~~\$1,000,000~~ \$1 million of the  
57 wireless enhanced 911 fee shall be distributed by the Public Service Commission to subsidize  
58 the construction of wireless towers as specified in said subsection: *And provided further, That*  
59 beginning on July 1, 2017, the wireless enhanced 911 fee shall include 15¢ to be distributed to  
60 the West Virginia State Police to be used for the operation of its forensic laboratory.

61 (d) The CMRS providers shall, after retaining a three-percent billing fee, send the wireless  
62 enhanced 911 fee moneys collected, on a monthly basis, to the Public Service Commission. The  
63 Public Service Commission shall, on a quarterly and approximately evenly staggered basis,  
64 disburse the fee revenue in the following 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 ~~1st day of~~ March 1. 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) CMRS providers have the same rights and responsibilities as other telephone service  
106 suppliers in dealing with the failure by a subscriber of a CMRS provider to timely pay the wireless  
107 enhanced 911 fee.

108 (f) Notwithstanding the provisions of section one-a of this article, for the purposes of this  
109 section, the term "county" means one of the counties provided in section one, article one, chapter  
110 one of this code.

111 (g) From any funds distributed to a county pursuant to this section, a total of three percent  
112 shall be set aside in a special fund to be used exclusively for the purchase of equipment that will  
113 provide information regarding the x and y coordinates of persons who call an emergency  
114 telephone system through a commercial mobile radio service: *Provided,* That upon purchase of  
115 the necessary equipment, the special fund shall be dissolved and any surplus shall be used for  
116 general operation of the emergency telephone system as may otherwise be provided by law.

117 (h) Notwithstanding anything to the contrary in this code, beginning July 1, 2008, prepaid  
118 wireless calling service is no longer subject to the wireless enhanced 911 fee.

NOTE: The purpose of this bill is to give the West Virginia State Police an additional 15¢  
from the wireless enhanced 911 fee to be used for the operation of its forensic laboratory.

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