

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### Senate Bill 524

FISCAL  
NOTE

BY SENATOR MAYNARD

[Introduced March 2, 2021; 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 correcting an error in the 911 fee; providing clarification on the calculation of three  
 3 percent fee retained by commercial mobile radio service providers; providing that  
 4 payments to counties are based on net 911 fee revenues received by the commission;  
 5 and requiring the public safety fee to be shown as two separate line items on a subscriber's  
 6 bill.

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

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

**§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee; wireless tower 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, a public safety  
 4 fee, and a wireless tower fee. As used in this section "in-state two-way service subscriber" has  
 5 the same meaning as that set forth in the rules of the Public Service Commission. The CMRS  
 6 providers shall, on a monthly basis, after retaining a billing fee of three percent of the sum of the  
 7 wireless enhanced 911 fee, ~~the public safety fee, and the wireless tower fee,~~ send moneys  
 8 collected from the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee to  
 9 the Public Service Commission.

10 (b) The wireless enhanced 911 fee is ~~\$3.47~~ \$3.49 per month for each valid in-state two-  
 11 way service subscriber, as that term is defined by Public Service Commission rules.

12 Beginning in the year 2021, and every two years thereafter, the Public Service  
 13 Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall  
 14 recalculate the wireless enhanced 911 fee so that increases or decreases by the same  
 15 percentage as the change in the weighted average rounded to the nearest penny, as of March 1  
 16 of the re-specification year, of all of the enhanced 911 fees imposed by the counties which have  
 17 adopted an enhanced 911 ordinance: *Provided*, That the wireless enhanced 911 fee may never

18 be increased by more than 25 percent of its value at the beginning of the re-specification year:  
19 *Provided, however,* That the fee may never be less than the amount set in subsection (b) of this  
20 section.

21 (c) The Public Service Commission shall, on a quarterly and approximately evenly  
22 staggered basis, disburse net wireless enhanced 911 fee revenue in the following manner:

23 (1) Each county that does not have a 911 ordinance in effect as of the original effective  
24 date of this section in the year 1997, or has enacted a 911 ordinance within the five years prior to  
25 the original effective date of this section in the year 1997, shall receive eight and one-half tenths  
26 of one percent of the net fee revenues received by the Public Service Commission: *Provided,*  
27 That after the effective date of this section, in the year 2005, when two or more counties  
28 consolidate into one county to provide government services, the consolidated county shall receive  
29 one percent of the net fee revenues received by the Public Service Commission for itself and for  
30 each county merged into the consolidated county. Each county shall receive eight and one-half  
31 tenths of one percent of the remainder of the net wireless enhanced 911 fee revenues received  
32 by the Public Service Commission: *Provided, however,* That after the effective date of this section,  
33 in the year 2005, when two or more counties consolidate into one county to provide government  
34 services, the consolidated county shall receive one percent of the net fee revenues received by  
35 the Public Service Commission for itself and for each county merged into the consolidated county.  
36 Then, from any moneys remaining, each county shall receive a pro rata portion of that remainder  
37 based on that county's population as determined in the most recent decennial census as a  
38 percentage of the state total population. The Public Service Commission shall recalculate the  
39 county disbursement percentages on a yearly basis, with the changes effective on July 1, and  
40 using data as of the preceding March 1. The public utilities which normally provide local exchange  
41 telecommunications service by means of lines, wires, cables, optical fibers, or by other means  
42 extended to subscriber premises shall supply the data to the Public Service Commission on a  
43 county specific basis no later than June 1 of each year;

44 (2) Counties which have an enhanced 911 ordinance in effect shall receive their share of  
45 the net wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee  
46 revenues received by those counties pursuant to their enhanced 911 ordinances;

47 (3) The Public Service Commission shall deposit the net wireless enhanced 911 fee  
48 revenue for each county which does not have an enhanced 911 ordinance in effect into an escrow  
49 account which it has established for that county. Any county with an escrow account may,  
50 immediately upon adopting an enhanced 911 ordinance, receive the moneys which have  
51 accumulated in the escrow account for use as specified in subdivision (2) of this subsection:

52 *Provided*, That a county that adopts a 911 ordinance after the original effective date of this section  
53 in the year 1997, or has adopted a 911 ordinance within five years of the original effective date of  
54 this section in the year 1997, shall continue to receive one percent of the total net 911 fee revenue  
55 for a period of five years following the adoption of the ordinance. Thereafter, each county shall  
56 receive that county's eight and one-half tenths of one percent of the remaining net fee revenue,  
57 plus that county's additional pro rata portion of the net fee revenues then remaining, based on  
58 that county's population as determined in the most recent decennial census as a percentage of  
59 the state total population: *Provided, however*, That every five years from the year 1997, all fee  
60 revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in  
61 subdivision (1) of this subsection, except that data for counties without enhanced 911 ordinances  
62 in effect shall be omitted from the calculation and all escrow accounts shall begin again with a  
63 zero balance. From any funds distributed to a county pursuant to this section, a total of three  
64 percent shall be set aside in a special fund to be used exclusively for the purchase of equipment  
65 that will provide information regarding the x and y coordinates of persons who call an emergency  
66 telephone system through a commercial mobile radio service: *Provided further*, That upon  
67 purchase of the necessary equipment, the special fund shall be dissolved and any surplus shall  
68 be used for general operation of the emergency telephone system as may otherwise be provided  
69 by law.

70 (d) Beginning July 1, 2020, CMRS providers shall collect the public safety fee from each  
71 in-state two-way service subscriber. The public safety fee shall be \$0.29 per month and will be  
72 shown as ~~a separate fee on the subscriber's bill~~ two separate fees on the subscriber's bill, \$0.10  
73 for the West Virginia State Police and \$0.19 for the Department of Homeland Security, Emergency  
74 Management Division. On a monthly basis, the Public Service Commission will distribute \$0.10  
75 of the public safety fee to the West Virginia State Police to be used for equipment upgrades for  
76 improving and integrating their communication efforts with those of the enhanced 911 systems,  
77 and the Public Service Commission will deposit \$0.19 of the public safety fee in a special fund  
78 established by the ~~Division~~ Department of Homeland Security, ~~and~~ Emergency Management  
79 Division to be used solely for the construction, maintenance, and upgrades of the West Virginia  
80 Interoperable Radio Project and any other costs associated with establishing and maintaining the  
81 infrastructure of the system. Any funds remaining in this fund at the end of the fiscal year shall  
82 automatically be reappropriated for the following year.

83 (e) Beginning July 1, 2020, CMRS providers shall collect the wireless tower fee from each  
84 in-state two-way service subscriber. The wireless tower fee shall be \$0.08 per month and will be  
85 shown as a separate fee on the subscriber's bill. On a monthly basis, the commission shall  
86 distribute the wireless tower fee to a fund administered by the Public Service Commission, entitled  
87 the Wireless Tower Access Assistance Fund, to subsidize the construction of wireless towers.  
88 The moneys shall be expended in accordance with an enhanced 911 wireless tower access  
89 matching grant order adopted by the Public Service Commission. The commission order shall  
90 contain terms and conditions designed to provide financial assistance loans or grants to state  
91 agencies, political subdivisions of the state, and wireless telephone carriers for the acquisition,  
92 equipping, and construction of new wireless towers, which would not be available otherwise due  
93 to marginal financial viability of the applicable tower coverage area: *Provided*, That the grants  
94 shall be allocated among potential sites based on application from county commissions  
95 demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any

96 tower constructed with assistance from the fund created by this subsection shall be available for  
97 use by emergency services, fire departments, and law-enforcement agencies' communications  
98 equipment, so long as that use does not interfere with the carriers' wireless signal.

99 (f) CMRS providers have the same rights and responsibilities as other telephone service  
100 suppliers in dealing with the failure by an in-state two-way service subscriber to timely pay the  
101 wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

102 (g) Notwithstanding the provisions of §24-6-1a of this code, for the purposes of this  
103 section, the term "county" means one of the counties provided in §1-1-1 of this code.

104 (h) Notwithstanding anything to the contrary in this code, prepaid wireless calling service  
105 is not subject to the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

106 (i) The Public Service Commission shall promulgate rules in accordance with §29A-3-1 *et*  
107 *seq.* of this code to effectuate the provisions of this section. The Public Service Commission may  
108 promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

NOTE: The purpose of this bill is to correct an error in the 911 fee; provide clarification on the calculation of three percent fee retained by commercial mobile radio service providers; provide that payments to counties are based on net 911 fee revenues received by the commission; and require the public safety fee to be shown as two separate line items on a subscriber's bill.

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