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H. B. 2690

(By Delegates Wells, Hatfield and Guthrie)
[Introduced January 20, 2011; referred to the
Committee on Finance.]

10 A BILL to amend and reenact §24-6-6b of the Code of West Virginia,
11 1931, as amended, relating to reverting the 911 fee on
12 wireless telephones from \$3 to 75¢; and reverting the
13 distribution formula for 911 fees to a pro rata share of total
14 fee revenues.

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

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

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

19 **§24-6-6b. Wireless enhanced 911 fee.**

20 (a) All CMRS providers as defined in section two of this
21 article shall, on a monthly basis or otherwise for good cause and
22 as directed by order of the Public Service Commission, collect from
23 each of their in-state two-way service subscribers a wireless
24 enhanced 911 fee. As used in this section "in-state two-way

1 service subscriber" ~~shall have~~ has the same meaning as that set
2 forth in the rules of the Public Service Commission. No later than
3 June 1, 2006, the Public Service Commission shall, after the
4 receipt of comments and the consideration of evidence presented at
5 a hearing, issue an updated order which directs the CMRS providers
6 regarding all relevant details of wireless enhanced 911 fee
7 collection, including the determination of who is considered an in-
8 state two-way service subscriber and which shall specify how the
9 CMRS providers shall deal with fee collection shortfalls caused by
10 uncollectible accounts. The Public Service Commission shall
11 solicit the views of the wireless telecommunications utilities
12 prior to issuing the order.

13 (b) The wireless enhanced 911 fee is ~~three dollars~~ 75¢ per
14 month for each valid retail commercial mobile radio service
15 subscription, as that term is defined by the Public Service
16 Commission in its order issued under subsection (a) of this
17 section. ~~Provided, That~~ Beginning on July, 1, 2005, the wireless
18 enhanced 911 fee shall include 10¢ to be distributed to the West
19 Virginia State Police to be used for equipment upgrades for
20 improving and integrating their communication efforts with those of
21 the enhanced 911 systems. ~~Provided, however, That for the fiscal~~
22 ~~year beginning on the first day of July, two thousand five, and for~~
23 ~~every fiscal year thereafter, one million dollars of the wireless~~
24 ~~enhanced 911 fee shall be distributed by the Public Service~~

~~1 Commission to subsidize the construction of towers. The moneys
2 shall be deposited in a fund administered by the West Virginia
3 Public Service Commission, entitled Enhanced 911 Wireless Tower
4 Access Assistance Fund, and shall be expended in accordance with an
5 enhanced 911 wireless tower access matching grant order adopted by
6 the Public Service Commission. The commission order shall contain
7 terms and conditions designed to provide financial assistance loans
8 or grants to state agencies, political subdivisions of the state
9 and wireless telephone carriers for the acquisition, equipping and
10 construction of new wireless towers, which would provide enhanced
11 911 service coverage and which would not be available otherwise due
12 to marginal financial viability of the applicable tower coverage
13 area: *Provided further,* That the grants shall be allocated among
14 potential sites based on application from county commissions
15 demonstrating the need for enhanced 911 wireless coverage in
16 specific areas of this state. Any tower constructed with
17 assistance from the fund created by this subdivision shall be
18 available for use by emergency services, fire departments and law-
19 enforcement agencies communication equipment, so long as that use
20 does not interfere with the carrier's wireless signal: *And*
21 *provided further,* That the Public Service Commission shall
22 promulgate rules in accordance with article three, chapter twenty-
23 nine-a of this code to effectuate the provisions of this
24 subsection. The Public Service Commission is specifically~~

1 ~~authorized to promulgate emergency rules: And provided further,~~
2 ~~That for the fiscal year beginning on the first day of July, two~~
3 ~~thousand six, and for every fiscal year thereafter, five percent of~~
4 ~~the wireless enhanced 911 fee money received by the Public Service~~
5 ~~Commission shall be deposited in a special fund established by the~~
6 ~~Division of Homeland Security and Emergency Management to be used~~
7 ~~solely for the construction, maintenance and upgrades of the West~~
8 ~~Virginia Interoperable Radio Project and any other costs associated~~
9 ~~with establishing and maintaining the infrastructure of the system.~~
10 ~~Any funds remaining in this fund at the end of the fiscal year~~
11 ~~shall automatically be reappropriated for the following year.~~

12 (c) Beginning in the year 1997, and every two years thereafter,
13 the Public Service Commission shall conduct an audit of the
14 wireless enhanced 911 fee and shall recalculate the fee so that it
15 is the weighted average rounded to the nearest penny, as of March 1
16 of the respecification year, of all of the enhanced 911 fees
17 imposed by the counties which have adopted an enhanced 911
18 ordinance. ~~Provided, That~~ The wireless enhanced 911 fee may never
19 be increased by more than twenty-five percent of its value at the
20 beginning of the respecification year ~~Provided, however, That~~ and
21 the fee may never be less than the amount set in subsection (b) of
22 this section. ~~Provided further, That~~ Beginning on July 1, 2005,
23 the wireless enhanced 911 fee shall include 10¢ to be distributed
24 to the West Virginia State Police to be used for equipment upgrades

1 for improving and integrating their communication efforts with
2 those of the enhanced 911 systems. ~~And provided further, That~~
3 ~~beginning on the first day of July, two thousand five, one million~~
4 ~~dollars of the wireless enhanced 911 fee shall be distributed by~~
5 ~~the Public Service Commission to subsidize the construction of~~
6 ~~wireless towers as specified in said subsection.~~

7 (d) The CMRS providers shall, after retaining a three-percent
8 billing fee, send the wireless enhanced 911 fee moneys collected,
9 on a monthly basis, to the Public Service Commission. The Public
10 Service Commission shall, on a quarterly and approximately evenly
11 staggered basis, disburse the fee revenue in the following manner:

12 (1) Each county that does not have a 911 ordinance in effect as
13 of the original effective date of this section in the year 1997 or
14 has enacted a 911 ordinance within the five years prior to the
15 original effective date of this section in the year 1997 shall
16 receive ~~eight and one-half tenths of one percent~~ of the fee
17 revenues received by the Public Service Commission. ~~Provided,~~
18 ~~That after the effective date of this section, in the year 2005~~
19 When two or more counties consolidate into one county to provide
20 government services, the consolidated county shall receive one
21 percent of the fee revenues received by the Public Service
22 Commission for itself and for each county merged into the
23 consolidated county. Each county shall receive ~~eight and one-half~~
24 ~~tenths of one percent~~ a pro rata portion of the ~~remainder of the~~

1 fee revenues received by the Public Service Commission, ~~Provided,~~
2 ~~however, That after the effective date of this section, in the year~~
3 ~~2005~~ based on that county's percentage of the total number of local
4 exchange telephone access lines and line equivalents in service in
5 the state. When two or more counties consolidate into one county
6 to provide government services, the consolidated county shall
7 receive one percent of the fee revenues received by the Public
8 Service Commission for itself and for each county merged into the
9 consolidated county. ~~Then, from any moneys remaining, each county~~
10 ~~shall receive a pro rata portion of that remainder based on that~~
11 ~~county's population as determined in the most recent decennial~~
12 ~~census as a percentage of the state total population.~~ The Public
13 Service Commission shall recalculate the county disbursement
14 percentages on a yearly basis, with the changes effective on
15 July 1, and using data as of March 1. The public utilities which
16 normally provide local exchange telecommunications service by means
17 of lines, wires, cables, optical fibers or by other means extended
18 to subscriber premises shall supply the data to the Public Service
19 Commission on a county specific basis no later than June 1 of each
20 year;

21 (2) Counties which have an enhanced 911 ordinance in effect
22 shall receive their share of the wireless enhanced 911 fee revenue
23 for use in the same manner as the enhanced 911 fee revenues
24 received by those counties pursuant to their enhanced 911

1 ordinances;

2 (3) The Public Service Commission shall deposit the wireless
3 enhanced 911 fee revenue for each county which does not have an
4 enhanced 911 ordinance in effect into an escrow account which it
5 has established for that county. Any county with an escrow account
6 may, immediately upon adopting an enhanced 911 ordinance, receive
7 the moneys which have accumulated in the escrow account for use as
8 specified in subdivision (2) of this subsection. *Provided, That*
9 A county that adopts a 911 ordinance after the original effective
10 date of this section in the year 1997 or has adopted a 911
11 ordinance within five years of the original effective date of this
12 section in the year 1997 shall continue to receive one percent of
13 the total 911 fee revenue for a period of five years following the
14 adoption of the ordinance. Thereafter, each county shall receive
15 that county's ~~eight and one-half tenths of one percent~~ portion of
16 the ~~remaining~~ fee revenue, being disbursed to counties on a pro
17 rata basis. ~~plus that county's additional pro rata portion of the~~
18 ~~fee revenues then remaining, based on that county's population as~~
19 ~~determined in the most recent decennial census as a percentage of~~
20 ~~the state total population: *Provided, however, That every* Every~~
21 five years from the year 1997, all fee revenue residing in escrow
22 accounts shall be disbursed on the pro rata basis specified in
23 subdivision (1) of this subsection, except that data for counties
24 without enhanced 911 ordinances in effect shall be omitted from the

1 calculation and all escrow accounts shall begin again with a zero
2 balance.

3 (e) CMRS providers have the same rights and responsibilities
4 as other telephone service suppliers in dealing with the failure by
5 a subscriber of a CMRS provider to timely pay the wireless enhanced
6 911 fee.

7 (f) Notwithstanding the provisions of section one-a of this
8 article, for the purposes of this section, the term "county" means
9 one of the counties provided in section one, article one, chapter
10 one of this code.

11 (g) From any funds distributed to a county pursuant to this
12 section, a total of three percent shall be set aside in a special
13 fund to be used exclusively for the purchase of equipment that will
14 provide information regarding the x and y coordinates of persons
15 who call an emergency telephone system through a commercial mobile
16 radio service. ~~Provided, That upon~~ Upon purchase of the necessary
17 equipment, the special fund shall be dissolved and any surplus
18 shall be used for general operation of the emergency telephone
19 system as may otherwise be provided by law.

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

NOTE: The purpose of this bill is to revert the 911 fee on

wireless telephones from \$3 to 75¢ while reverting the distribution formula for 911 fees to a pro rata share of total fee revenues.

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