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H. B. 2932

(By Delegates Ashley, E. Nelson, Anderson,
Gearheart, H. White and Williams)

[Introduced February 24, 2015; referred to the
Committee on Finance.]

A BILL to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended; relating to the distribution of wireless enhanced 911 fees; creating a special account; authorizing the funds distributed for the West Virginia Interoperable Radio Project to be administered by the State Police for maintenance and upgrades to the system.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-6b. Wireless enhanced 911 fee.

(a) All CMRS providers as defined in section two of this article shall, on a monthly basis or otherwise for good cause and as directed by order of the Public Service Commission, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee. As used in this section “in-state two-way service subscriber” shall have the same meaning as that set forth in the rules of the Public Service Commission. No later than June 1, 2006, the Public Service Commission

1 shall, after the receipt of comments and the consideration of evidence presented at a hearing, issue
2 an updated order which directs the CMRS providers regarding all relevant details of wireless
3 enhanced 911 fee collection, including the determination of who is considered an in-state two-way
4 service subscriber and which shall specify how the CMRS providers shall deal with fee collection
5 shortfalls caused by uncollectible accounts. The Public Service Commission shall solicit the views
6 of the wireless telecommunications utilities prior to issuing the order.

7 (b) The wireless enhanced 911 fee is \$3 per month for each valid retail commercial mobile
8 radio service subscription, as that term is defined by the Public Service Commission in its order
9 issued under subsection (a) of this section; *Provided*, That beginning on July 1, 2005, the wireless
10 enhanced 911 fee shall include 10¢ to be distributed to the West Virginia State Police to be used for
11 equipment upgrades for improving and integrating their communication efforts with those of the
12 enhanced 911 systems; *Provided, however*, That for the fiscal year beginning on July 1, 2005, and
13 for every fiscal year thereafter, \$1 million of the wireless enhanced 911 fee shall be distributed by
14 the Public Service Commission to subsidize the construction of towers. The moneys shall be
15 deposited in a fund administered by the West Virginia Public Service Commission, entitled
16 Enhanced 911 Wireless Tower Access Assistance Fund, and shall be expended in accordance with
17 an enhanced 911 wireless tower access matching grant order adopted by the Public Service
18 Commission. The commission order shall contain terms and conditions designed to provide
19 financial assistance loans or grants to state agencies, political subdivisions of the state and wireless
20 telephone carriers for the acquisition, equipping and construction of new wireless towers, which
21 would provide enhanced 911 service coverage and which would not be available otherwise due to
22 marginal financial viability of the applicable tower coverage area; *Provided further*, That the grants

1 shall be allocated among potential sites based on application from county commissions
2 demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any tower
3 constructed with assistance from the fund created by this subdivision shall be available for use by
4 emergency services, fire departments and law-enforcement agencies communication equipment, so
5 long as that use does not interfere with the carrier's wireless signal: *And provided further*, That the
6 Public Service Commission shall promulgate rules in accordance with article three, chapter
7 twenty-nine-a of this code to effectuate the provisions of this subsection. The Public Service
8 Commission is specifically authorized to promulgate emergency rules: *And provided further*, That
9 for the fiscal year beginning on July 1, 2006, and for every fiscal year thereafter, five percent of the
10 wireless enhanced 911 fee money received by the Public Service Commission shall be deposited in
11 a special fund established by the Division of Homeland Security and Emergency Management to be
12 used solely for the construction, maintenance and upgrades of the West Virginia Interoperable Radio
13 Project and any other costs associated with establishing and maintaining the infrastructure of the
14 system: ~~Any funds remaining in this fund at the end of the fiscal year shall automatically be~~
15 ~~reappropriated for the following year~~ *And provided further*, That for the fiscal year beginning on
16 July 1, 2015, and for every fiscal year after, five percent of the wireless enhanced 911 fee money
17 received by the Public Service Commission shall be deposited as provided in subsection (i) of this
18 section.

19 (c) Beginning in the year 1997, and every two years thereafter, the Public Service
20 Commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the fee so
21 that it is the weighted average rounded to the nearest penny, as of March 1 of the respecification
22 year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911

1 ordinance: *Provided*, That the wireless enhanced 911 fee may never be increased by more than
2 twenty-five percent of its value at the beginning of the respecification year: *Provided, however*, That
3 the fee may never be less than the amount set in subsection (b) of this section: *Provided further*,
4 That beginning on July 1, 2005, the wireless enhanced 911 fee shall include 10¢ to be distributed to
5 the West Virginia State Police to be used for equipment upgrades for improving and integrating their
6 communication efforts with those of the enhanced 911 systems: *And provided further*, That
7 beginning on July 1, 2005, \$1million of the wireless enhanced 911 fee shall be distributed by the
8 Public Service Commission to subsidize the construction of wireless towers as specified in said
9 subsection.

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

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

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

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

15 (3) The Public Service Commission shall deposit the wireless enhanced 911 fee revenue for
16 each county which does not have an enhanced 911 ordinance in effect into an escrow account which
17 it has established for that county. Any county with an escrow account may, immediately upon
18 adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the escrow
19 account for use as specified in subdivision (2) of this subsection: *Provided*, That a county that
20 adopts a 911 ordinance after the original effective date of this section in the year 1997 or has adopted
21 a 911 ordinance within five years of the original effective date of this section in the year 1997 shall
22 continue to receive one percent of the total 911 fee revenue for a period of five years following the

1 adoption of the ordinance. Thereafter, each county shall receive that county's eight and one-half
2 tenths of one percent of the remaining fee revenue, plus that county's additional pro rata portion of
3 the fee revenues then remaining, based on that county's population as determined in the most recent
4 decennial census as a percentage of the state total population: *Provided, however,* That every five
5 years from the year 1997, all fee revenue residing in escrow accounts shall be disbursed on the pro
6 rata basis specified in subdivision (1) of this subsection, except that data for counties without
7 enhanced 911 ordinances in effect shall be omitted from the calculation and all escrow accounts shall
8 begin again with a zero balance.

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

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

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

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

1 (i) For the fiscal year beginning July 1, 2015, and each fiscal year after, five percent of the
2 wireless enhanced 911 fee money received by the Public Service Commission shall be deposited in
3 a special account in the State Treasury to be known as the "West Virginia Interoperable Radio
4 Project Maintenance Fund" to be administered by the State Police. Expenditures from the fund shall
5 be for the purpose of the maintenance and upgrades to the West Virginia Interoperable Radio System
6 and are not authorized from collections but are to be made only in accordance with appropriation by
7 the Legislature and in accordance with the provisions of article three, chapter twelve of this code and
8 upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided, That for*
9 the fiscal year ending June 30, 2016 expenditures are authorized from collections rather than
10 pursuant to appropriation by the Legislature. Any moneys remaining in the special fund established
11 by the Division of Homeland Security and Emergency Management created in subsection (b) of this
12 section shall be deposited in the fund created in this subsection.

NOTE: The purpose of this bill is to address the distribution of wireless enhanced 911 fees. It creates a special account and authorize the funds distributed for the West Virginia Interoperable Radio Project to be administered by the State Police for maintenance and upgrades to the system.

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