



State of Wisconsin  
2001 - 2002 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 889**

March 5, 2002 - Offered by COMMITTEE ON INFORMATION POLICY AND TECHNOLOGY.

1     **AN ACT to renumber and amend** 100.207 (1), 196.202 (2) and 196.50 (4); **to**  
2     **amend** 93.14 (3), 93.15 (1), 93.15 (2), 196.195 (12) (a), 196.499 (1) (b), 196.50  
3     (4) (title), 198.12 (6) and 198.22 (6); **to repeal and recreate** 196.202 (2) (intro.);  
4     and **to create** 15.155 (5), 20.143 (3) (je), 20.143 (3) (jm), 20.143 (3) (js), 20.143  
5     (3) (kv), 93.01 (1r), 93.14 (1m), 100.207 (1) (a), 100.207 (1) (c), 100.207 (3g),  
6     100.207 (3m), 100.207 (5g), 100.207 (5m), 146.70 (3m), 196.02 (13), 196.195 (12)  
7     (f), 196.196 (5) (f) 1. g., 196.196 (5) (f) 4., 196.202 (2) (b), 196.202 (6), 196.50 (4)  
8     (a) and 196.50 (4) (c) of the statutes; **relating to:** creating a wireless 911 board;  
9     imposing a surcharge on wireless telephone customers; making grants for  
10    wireless 911 emergency telephone service; requiring wireless number  
11    portability; jurisdictional and enforcement authority of the department of  
12    agriculture, trade and consumer protection; construction and ownership of  
13    telecommunications facilities by local units of government; services provided by

1 telecommunications providers; authority of the public service commission  
2 regarding area codes and telephone numbers; allowing for adjustments in  
3 incentive-regulated telecommunication utility rates; requesting the joint  
4 legislative council to study retail and wholesale telecommunications services;  
5 granting rule-making authority; and making appropriations.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

6 **SECTION 1.** 15.155 (5) of the statutes is created to read:

7 15.155 (5) WIRELESS 911 BOARD. (a) There is created a wireless 911 board  
8 attached to the department of commerce under s. 15.03 consisting of the following  
9 members:

10 1. One representative to the assembly, appointed by the speaker of the  
11 assembly.

12 2. One representative to the assembly, appointed by the assembly minority  
13 leader.

14 3. One senator, appointed by the president of the senate.

15 4. One senator, appointed by the senate minority leader.

16 5. Four persons who represent the interests of commercial mobile radio service  
17 providers, as defined in s. 196.01 (2g), appointed by the governor.

18 6. Four persons who represent the interests of public agencies, as defined in s.  
19 146.70 (1) (f), or public safety agencies, as defined in s. 146.70 (1) (g), that operate  
20 public safety answering points, as defined in s. 146.70 (1) (gm), appointed by the  
21 governor.

22 (b) The members appointed under par. (a) 5. and 6. shall serve 3-year terms  
23 and may not serve more than 2 consecutive terms.

1           **SECTION 2.** 20.143 (3) (je) of the statutes is created to read:

2           20.143 (3) (je) *Wireless 911 board general program operations.* Two and  
3 one-half percent of all moneys received under s. 146.70 (3m) (d) 3. for general  
4 program operations of the wireless 911 board, including contracting for audits under  
5 s. 146.70 (3m) (b) 5.

6           **SECTION 3.** 20.143 (3) (jm) of the statutes is created to read:

7           20.143 (3) (jm) *Wireless provider grants.* Forty-eight and three-fourths  
8 percent of all moneys received under s. 146.70 (3m) (d) 3. for the wireless 911 board  
9 to make grants to wireless providers under s. 146.70 (3m) (b) 2. and to make transfers  
10 to the appropriation under par. (kv) as provided under s. 146.70 (3m) (b) 3.

11           **SECTION 4.** 20.143 (3) (js) of the statutes is created to read:

12           20.143 (3) (js) *Public agency and wireless provider grants.* Forty-eight and  
13 three-fourths percent of all moneys received under s. 146.70 (3m) (d) 3. for the  
14 wireless 911 board to make grants to public agencies under s. 146.70 (3m) (b) 1. and  
15 to wireless providers under s. 146.70 (3m) (b) 3.

16           **SECTION 5.** 20.143 (3) (kv) of the statutes is created to read:

17           20.143 (3) (kv) *Public agency grants.* All moneys transferred from the  
18 appropriation account under par. (jm) for the wireless 911 board to make grants to  
19 public agencies under s. 146.70 (3m) (b) 1.

20           **SECTION 6.** 93.01 (1r) of the statutes is created to read:

21           93.01 (1r) “Civil investigative demand” means a written document prepared  
22 by the department that is related to the enforcement of chs. 93 to 100 and that orders  
23 a person to do any of the following:

24           (a) Provide originals or copies of documents, records, or reports in the person’s  
25 custody.

1 (b) Answer specific questions submitted by the department in the form of  
2 written depositions, interrogatories, or requests for admissions.

3 (c) Allow employees of the department to review and copy documents, records,  
4 or reports in the person's custody.

5 **SECTION 7.** 93.14 (1m) of the statutes is created to read:

6 93.14 (1m) (a) Any person who has been served with a department complaint,  
7 notice, order, or other process as authorized in s. 93.18 (5) shall be subject to the  
8 department's authority and jurisdiction, as limited by par. (b).

9 (b) The department's jurisdiction may not exceed the jurisdiction granted to  
10 courts under s. 815.05.

11 **SECTION 8.** 93.14 (3) of the statutes is amended to read:

12 93.14 (3) Any person who shall unlawfully fail to attend as a witness, fail to  
13 comply with a subpoena, order, or civil investigative demand, or refuse to testify may  
14 be coerced as provided in s. 885.12.

15 **SECTION 9.** 93.15 (1) of the statutes is amended to read:

16 93.15 (1) The department may, by general or special order, require persons  
17 ~~engaged in business~~ to file with the department, at such time and in such manner  
18 as the department may direct, sworn or unsworn reports or sworn or unsworn  
19 answers in writing to specific questions, as to any matter which the department may  
20 investigate.

21 **SECTION 10.** 93.15 (2) of the statutes is amended to read:

22 93.15 (2) The department or any of its authorized agents may have access to  
23 and may copy any document, or any part thereof, which of a document, that is in the  
24 possession or under the control of any person ~~engaged in business~~, if such the

1 document, or such part thereof of the document, is relevant to any matter ~~which~~ that  
2 the department may investigate.

3 **SECTION 11.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and  
4 amended to read:

5 100.207 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,  
6 “telecommunications:

7 (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

8 **SECTION 12.** 100.207 (1) (a) of the statutes is created to read:

9 100.207 (1) (a) “Telecommunications provider” has the meaning given in s.  
10 196.01 (8p).

11 **SECTION 13.** 100.207 (1) (c) of the statutes is created to read:

12 100.207 (1) (c) “Telecommunications subscription” means a contract between  
13 a telecommunications provider and a customer for a telecommunications service that  
14 is always provided to the customer during each billing period.

15 **SECTION 14.** 100.207 (3g) of the statutes is created to read:

16 100.207 (3g) **BILLING FOR OTHER SERVICES.** (a) A telecommunications provider  
17 may not bill a customer for any goods or services, other than telecommunications  
18 services, unless all of the following apply:

19 1. The telecommunications provider reasonably believes that the customer  
20 knowingly consented to the billing.

21 2. The telecommunications provider confirms with the customer, before  
22 providing the telecommunications service, that the customer knowingly consented  
23 to the billing.

24 (b) If a customer consents to being billed under par. (a), all of the following shall  
25 apply:

1           1. The telecommunications provider shall distinguish the billing for the other  
2 goods or services from the billing for the telecommunications service in a conspicuous  
3 manner. The department shall promulgate rules establishing requirements for  
4 complying with this subdivision.

5           2. The telecommunications provider shall provide a detailed itemized listing  
6 of the charges for the goods or services if requested to do so by the customer.

7           **SECTION 15.** 100.207 (3m) of the statutes is created to read:

8           100.207 **(3m)** TELECOMMUNICATIONS SERVICE CONFIRMATION. (a) A  
9 telecommunications provider may not provide a telecommunications service to a  
10 customer unless all of the following apply:

11           1. The telecommunications provider reasonably believes that the customer  
12 knowingly consented to receive the service.

13           2. The telecommunications provider confirms with the customer, before  
14 providing the telecommunications service, that the customer knowingly consented  
15 to receive the service.

16           3. At the time that the telecommunications provider provides confirmation  
17 under subd. 2., the telecommunications provider informs the customer that he or she  
18 may, before the service is activated, withdraw his or her consent to receive the service  
19 and informs the customer of the manner by which that consent may be withdrawn.

20           (b) Paragraph (a) does not apply to basic local exchange service or long distance  
21 toll service or a telecommunications service that is provided as part of a  
22 telecommunications subscription.

23           **SECTION 16.** 100.207 (5g) of the statutes is created to read:

24           100.207 **(5g)** RESTRICTIONS ON CONTRACTS. No telecommunications provider  
25 may place in a contract entered into with a customer located in this state a clause that

1 provides that a law of a state other than this state applies to the parties or terms of  
2 the contract or the rights and remedies under the contract, unless the law of the other  
3 state is in conformity with the law of this state.

4 **SECTION 17.** 100.207 (5m) of the statutes is created to read:

5 100.207 **(5m)** RECORD REQUIREMENTS. Any person who provides  
6 telecommunications service to any customer in this state shall maintain each billing  
7 and collection record that is made in providing the telecommunications service for  
8 a period of 5 years beginning on the date that the record is made.

9 **SECTION 18.** 146.70 (3m) of the statutes is created to read:

10 146.70 **(3m)** WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

11 1. "Board" means the wireless 911 board.

12 2. "Federal wireless orders" means the orders of the federal communications  
13 commission regarding 911 emergency services for wireless telephone users in FCC  
14 docket no. 94-102.

15 3. "Wireless provider" means a commercial mobile radio service provider, as  
16 defined in s. 196.01 (2g), that is subject to the federal wireless orders.

17 4. "Wireless public safety answering point" means a facility to which a call on  
18 a wireless provider's system is initially routed for response, and on which a public  
19 agency directly dispatches the appropriate emergency service provider, relays a  
20 message to the appropriate emergency service provider, or transfers the call to the  
21 appropriate emergency services provider.

22 (b) *Grants.* 1. From the appropriations under s. 20.143 (3) (js) and (kv), the  
23 board shall make grants to public agencies that operate public safety answering  
24 points for eligible expenses under par. (c). A public agency is eligible for a grant  
25 under this subdivision only if the board determines that the public agency is

1 providing, or has begun to implement, 911 emergency services for wireless telephone  
2 users and has complied with the federal wireless orders. The total amount in grants  
3 that a public agency may receive under this subdivision may not exceed 50% of the  
4 public agency's total eligible expenses under par. (c).

5 2. From the appropriation under s. 20.143 (3) (jm), the board shall make grants  
6 to wireless providers for actual expenses incurred by wireless providers to upgrade,  
7 purchase, lease, program, install, test, operate, or maintain all data, hardware, and  
8 software necessary to comply with the federal wireless orders.

9 3. If the board determines that there are insufficient funds in the appropriation  
10 account under s. 20.143 (3) (jm) to make a grant under subd. 2., and the board has  
11 not paid a grant under subd. 1. or an installment under subd. 4. in the preceding 3  
12 months, the board may make the grant to the wireless provider from the  
13 appropriation account under s. 20.143 (3) (js). If the board makes a grant under this  
14 subdivision, the board shall, as soon as practicable, transfer moneys from the  
15 appropriation account under s. 20.143 (3) (jm) to the appropriation account under s.  
16 20.143 (3) (kv) in an amount equal to the amount of the grant.

17 4. If the board determines that there are insufficient funds in an appropriation  
18 to make a grant under this paragraph, the board may make the grant in  
19 installments.

20 5. The board shall contract for independent audits of applications for grants  
21 under this paragraph. An applicant shall provide an auditor with any relevant  
22 confidential business information.

23 (c) *Public agency eligible expenses.* 1. A public agency may receive a grant  
24 under par. (b) 1. for actual expenses that the public agency directly and primarily



1 incurred for leasing, purchasing, operating, or maintaining a wireless public safety  
2 answering point, including expenses for all of the following:

3 a. Necessary network equipment, computer hardware and software, database  
4 equipment, and radio and telephone equipment, that are located within the public  
5 safety answering point.

6 b. Training operators of a public safety answering point.

7 c. Network costs for delivery of calls from a wireless provider to a public safety  
8 answering point.

9 2. Except for expenses under subd. 1., a public agency may not receive a grant  
10 under par. (b) 1. for any of the following:

11 a. Emergency service dispatch, including personnel, training, equipment,  
12 software, records management, radio communications, and mobile data network  
13 systems.

14 b. Vehicles and equipment in vehicles.

15 c. Communications equipment and software used to communicate with  
16 vehicles.

17 d. Real estate and improvements to real estate, other than improvements  
18 necessary to maintain the security of a public safety answering point.

19 e. Salaries and benefits of operators of a public safety answering point.

20 (d) *Wireless surcharge.* 1. Each wireless provider shall impose a surcharge of  
21 50 cents per month for each telephone number that has a billable address in this state  
22 and shall identify the surcharge on a customer's bill on a separate line that is  
23 identified as "Wireless 911 Surcharge." The board may promulgate rules that  
24 increase or decrease the surcharge, except that the board may not increase the

1 surcharge more than once per year, any increase must be uniform statewide and may  
2 not exceed 10 cents, and the surcharge may not exceed \$1.

3 2. A wireless provider may not prorate the surcharge and shall collect the entire  
4 amount of the surcharge for a month of partial service.

5 3. The board shall promulgate rules establishing requirements for wireless  
6 providers to collect the surcharge from their customers beginning with the first bills  
7 issued after July 1, 2002. Except as provided in subd. 4., a wireless provider shall  
8 pay the surcharges to the board no more than 60 days after the end of the calendar  
9 month in which the surcharges are collected. The board shall bring an action to  
10 collect a surcharge that is not paid by a customer and the customer's wireless  
11 provider is not liable for the unpaid surcharge.

12 4. Wireless providers may retain 2% of the surcharges collected in fiscal year  
13 2002-03 for reimbursing costs related to collecting the surcharge, including  
14 reprogramming billing systems.

15 (e) *Confidentiality of information.* The board may withhold from public  
16 inspection any information that would aid a competitor of a wireless provider in  
17 competition with the wireless provider. The board shall establish procedures for  
18 internal management that prohibit members of the board from having access to  
19 confidential business information submitted by wireless providers.

20 (f) *Public information.* The board shall promulgate rules establishing  
21 requirements and procedures for informing the public about the purpose and uses  
22 of the surcharge required under this subsection. The rules shall require the board  
23 to maintain a toll-free telephone number to provide such information to the public  
24 and require wireless providers to identify the toll-free number on bills and direct  
25 customers to contact the board regarding questions about the surcharge.

1           (g) *Other charges prohibited.* No city, village, town, county, or state agency, as  
2 defined in s. 16.375 (1), except the board, may require a wireless provider to collect  
3 or pay a surcharge or fee related to wireless emergency telephone service.

4           (h) *Liability exemption.* A wireless provider shall not be liable to any person  
5 who uses a wireless emergency telephone number system for which a grant is made  
6 under par. (b).

7           (i) *Report to governor and legislature.* Annually, the board shall submit a report  
8 to the governor, and to the chief clerk of each house of the legislature for distribution  
9 to the legislature under s. 13.172 (2), that describes the costs incurred by wireless  
10 providers and public agencies in providing wireless emergency telephone service and  
11 the grants made by the board.

12           (j) *Board powers.* The board shall possess all powers necessary or convenient  
13 for administering the requirements of this subsection.

14           (k) *Sunset.* This subsection does not apply after the first day of the 60th month  
15 beginning after the effective date of this paragraph .... [revisor inserts date].

16           **SECTION 19.** 196.02 (13) of the statutes is created to read:

17           196.02 (13) TELEPHONE NUMBERS AND AREA CODES. To the extent authorized  
18 under federal law, the commission has jurisdiction to supervise and regulate  
19 telephone numbers and area codes used by any telecommunications provider in this  
20 state and to do all things necessary and convenient to such jurisdiction. The  
21 commission may withhold from public inspection any information obtained from a  
22 telecommunications provider under this subsection that would aid a competitor of  
23 the telecommunications provider.

24           **SECTION 20.** 196.195 (12) (a) of the statutes is amended to read:

1           196.195 (12) (a) To provide incentives for telecommunications utilities to  
2 achieve any of the goals listed in par. (b) 1. a., the commission may suspend any of  
3 the provisions listed in sub. (5) except ss. 196.19, 196.20 (1m), 196.22, 196.26, 196.37,  
4 196.60 and 196.604, may grant an approval under par. (f), or may approve a  
5 regulatory method alternative to traditional rate-of-return regulation that does not  
6 require suspension of any provisions listed in sub. (5).

7           **SECTION 21.** 196.195 (12) (f) of the statutes is created to read:

8           196.195 (12) (f) Notwithstanding pars. (d) 2. and (e) and s. 196.204 (5) (a) and  
9 (6) (b) 2., the commission may approve the provision of basic local exchange service  
10 by a telecommunications utility that is subject to this subsection at rates that match  
11 a competitor's rates for such service.

12           **SECTION 22.** 196.196 (5) (f) 1. g. of the statutes is created to read:

13           196.196 (5) (f) 1. g. Competition for telecommunications services throughout  
14 the state.

15           **SECTION 23.** 196.196 (5) (f) 4. of the statutes is created to read:

16           196.196 (5) (f) 4. The commission may require a telecommunications provider  
17 or provider of cable television service to submit to the commission any information  
18 that the commission determines is necessary to prepare the report under subd. 1.  
19 The commission may withhold from public inspection any information obtained  
20 under this subdivision that would aid a competitor of a telecommunications provider  
21 or provider of cable television service.

22           **SECTION 24.** 196.202 (2) of the statutes, as affected by 2001 Wisconsin Act 16,  
23 is renumbered 196.202 (2) (intro.) and amended to read:

1           196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service  
2 provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and  
3 except ~~that a~~ as follows:

4           (a) A commercial mobile radio service provider is subject to s. 196.218 (3) if the  
5 commission promulgates rules that designate commercial mobile radio service  
6 providers as eligible to receive universal service funding under both the federal and  
7 state universal service fund programs. If the commission promulgates such rules,  
8 a commercial mobile radio service provider shall respond, subject to the protection  
9 of the commercial mobile radio service provider's competitive information, to all  
10 reasonable requests for information about its operations in this state from the  
11 commission necessary to administer the universal service fund.

12           **SECTION 25.** 196.202 (2) (intro.) of the statutes, as affected by 2001 Wisconsin  
13 Act .... (this act), is repealed and recreated to read:

14           196.202 (2) SCOPE OF REGULATION. (intro.) A commercial mobile radio service  
15 provider is not subject to ch. 201 or this chapter, except as provided in subs. (5) and  
16 (6), and except as follows:

17           **SECTION 26.** 196.202 (2) (b) of the statutes is created to read:

18           196.202 (2) (b) A commercial mobile radio service provider is subject to ss.  
19 196.02 (13) and 196.196 (5) (f) 4.

20           **SECTION 27.** 196.202 (6) of the statutes is created to read:

21           196.202 (6) NUMBER PORTABILITY. A commercial mobile radio service provider  
22 that is subject to the requirements of 47 CFR Part 52, Subpart C, shall provide  
23 number portability, as defined in 47 CFR 52.21 (k), as required in 47 CFR Part 52,  
24 Subpart C.

25           **SECTION 28.** 196.499 (1) (b) of the statutes is amended to read:

1           196.499 (1) (b) A telecommunications carrier shall be treated under ss. 196.02  
2           (13), 196.196 (5) (f) 4., 196.209, 196.218 (8) and 196.219 as a telecommunications  
3           provider.

4           **SECTION 29.** 196.50 (4) (title) of the statutes is amended to read:

5           196.50 (4) (title) ~~MUNICIPALITY~~ LOCAL GOVERNMENTAL UNITS AND MUNICIPALITIES  
6           RESTRAINED.

7           **SECTION 30.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and  
8           amended to read:

9           196.50 (4) (b) No municipality may construct any public utility if there is in  
10          operation under an indeterminate permit in the municipality a public utility  
11          engaged in similar service ~~other than a telecommunications service,~~ unless it secures  
12          from the commission a declaration, after a public hearing of all parties interested,  
13          that public convenience and necessity require the municipal public utility and unless  
14          the requirements of par. (c) are satisfied.

15          **SECTION 31.** 196.50 (4) (a) of the statutes is created to read:

16          196.50 (4) (a) In this subsection:

17           1. “Local governmental unit” means a town, village, city, county, or special  
18          purpose district, a subunit of a town, village, city, county, or special purpose district,  
19          or any combination of a town, village, city, county, special purpose district, or such  
20          a subunit.

21           2. “State agency” means any office, department, independent agency,  
22          institution of higher education, association, society, or other body in state  
23          government created or authorized to be created by the constitution or any law,  
24          including the legislature and courts.

1           3. “Telecommunications facility” means any plant or equipment used to provide  
2 a telecommunications service to the public by wire, fiber optics, radio signal, or other  
3 means.

4           **SECTION 32.** 196.50 (4) (c) of the statutes is created to read:

5           196.50 (4) (c) 1. Except as provided in subd. 2., a local governmental unit may  
6 not construct or own a telecommunications facility, unless all of the following are  
7 satisfied:

8           a. The local governmental unit leases, on a nondiscriminatory basis, the  
9 telecommunications facility to a telecommunications provider that is not owned or  
10 controlled by any local governmental unit.

11           b. Before beginning construction or taking ownership of the  
12 telecommunications facility, whichever occurs first, the local governmental unit  
13 submits to the commission a financing plan and budget for constructing or owning  
14 the telecommunications facility. The information submitted under this subd. 1. b.  
15 shall be open to public inspection.

16           c. The lease specified in subd. 1. a. is approved at a referendum pursuant to this  
17 subdivision. The governing body of each town, village, city, county, or special purpose  
18 district that comprises the local governmental unit or that has a subunit that  
19 comprises the local governmental unit may adopt a resolution calling for a  
20 referendum under this subdivision on whether that local governmental entity or  
21 subunit should construct or purchase a telecommunications facility and enter into  
22 a lease specified in subd. 1. a. The referendum shall be held at the next succeeding  
23 spring election or general election to be held not earlier than 42 days after the  
24 adoption of the resolution. The referendum question shall be substantially as  
25 follows: “Shall the .... [name of town, village, city, county, special purpose district, or

1 subunit] .... [construct or purchase] a telecommunications facility for the purpose of  
2 leasing that facility to a private telecommunications provider?" If a majority of the  
3 electors of each town, village, city, county, or special purpose district that comprises  
4 the local governmental unit or that has a subunit that comprises the local  
5 governmental unit who vote in the referendum vote "Yes," the local governmental  
6 unit may enter into the lease specified in subd. 1. a., provided the local governmental  
7 unit complies with subd. 1. b.

8 d. Any other requirement established in rules promulgated by the commission  
9 under subd. 3.

10 2. a. Subdivision 1. does not apply to a telecommunications facility that is  
11 owned, or for which a financial institution has agreed in writing to finance, in whole  
12 or in part, the cost of construction or ownership, before the effective date of this  
13 subdivision .... [revisor inserts date]. This subdivision paragraph does not apply 5  
14 years after the effective date of this subdivision paragraph .... [revisor inserts date].

15 b. Subdivision 1. does not apply to a telecommunications facility leased to a  
16 local government unit, state agency, school district, cooperative educational service  
17 agency, technical college district, public library board, public library system,  
18 federally recognized Indian tribe or band located in this state, or volunteer fire  
19 company or fire department organized under ch. 213, if the lease is under a contract  
20 or agreement under s. 66.0301, 66.0303, or 120.25, or a similar contract or agreement  
21 for the sharing of facilities.

22 3. If the commission determines that the requirements under subd. 1. a., b., and  
23 c. do not adequately protect the public interest from any unfair competitive  
24 advantage that a local governmental unit may gain from its status as a local  
25 governmental unit, the commission may promulgate rules establishing additional



1 requirements that a local governmental unit must satisfy before constructing or  
2 owning a telecommunications facility, including any of the following:

3 a. That the cost of owning or constructing the telecommunications facility must  
4 be funded only from revenues generated from leasing the facility under subd. 1. a.

5 b. That construction and operation of the telecommunications facility must be  
6 subject to the same requirements, fees, and penalties relating to the use of public  
7 rights-of-way that apply to a telecommunications facility that is not owned or  
8 controlled by a local unit of government.

9 c. That the local unit of government must comply with any other requirement  
10 that the commission determines is necessary to protect the public interest.

11 **SECTION 33.** 198.12 (6) of the statutes is amended to read:

12 198.12 **(6)** UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF  
13 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire  
14 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to  
15 construct any utility or portion thereof to operate, in whole or in part, in the district,  
16 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where  
17 applicable, to construct any addition to or extension of any such utility, and to own,  
18 acquire and construct any water power and hydroelectric power plant, within or  
19 without the district, to be operated in connection with any such utility, and to  
20 operate, maintain and conduct such utility and water power and hydroelectric power  
21 plant and system both within and without the district, and to furnish, deliver and  
22 sell to the public and to any municipality and to the state and any state institution  
23 heat, light and power service and any other service, commodity or facility which may  
24 be produced or furnished thereby, and to charge and collect rates, tolls and charges  
25 for the same. For said purposes the district is granted and shall have and exercise

1 the right freely to use and occupy any public highway, street, way or place reasonably  
2 necessary to be used or occupied for the maintenance and operation of such utility  
3 or any part thereof, subject, however, to such local police regulations as may be  
4 imposed by any ordinance adopted by the governing body of the municipality in  
5 which such highway, street, way or place is located.

6 **SECTION 34.** 198.22 (6) of the statutes is amended to read:

7 198.22 (6) ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF  
8 STREETS. The district shall have power and authority to own, acquire, and, subject  
9 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any  
10 water utility or portion thereof, to operate, in whole or in part, in the district and to  
11 construct any addition or extension to any such utility. For such purpose the district  
12 is granted and shall have and exercise the right freely to use and occupy any public  
13 highway, street, way or place reasonably necessary to be used or occupied for the  
14 construction, operation or maintenance of such utility or any part thereof, subject,  
15 however, to the obligation of the district to replace said grounds in the same condition  
16 as they previously were in.

17 **SECTION 35. Nonstatutory provisions.**

18 (1) WIRELESS 911 SURCHARGE RULES.

19 (a) *Definition.* In this subsection, “board” means the wireless 911 board.

20 (b) *Board rules.* If all of the members of the board are appointed and qualified  
21 on July 1, 2002, the board shall, using the procedure under section 227.24 of the  
22 statutes, promulgate the rules under section 146.70 (3m) (d) 3. of the statutes, as  
23 created by this act, for the period before permanent rules become effective, but not  
24 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.  
25 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not

1 required to provide evidence that promulgating a rule under this paragraph as an  
2 emergency rule is necessary for the preservation of the public peace, health, safety,  
3 or welfare and is not required to provide a finding of emergency for a rule  
4 promulgated under this paragraph.

5 (c) *Department of commerce rules.* Notwithstanding section 146.70 (3m) (d) 3.  
6 of the statutes, as created by this act, if all of the members of the board are not  
7 appointed and qualified on July 1, 2002, the department of commerce shall, using the  
8 procedure under section 227.24 of the statutes, promulgate the rules under section  
9 146.70 (3m) (d) 3. of the statutes, as created by this act, for the period before  
10 permanent rules become effective, but not to exceed the period authorized under  
11 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
12 (2) (b), and (3) of the statutes, the department of commerce is not required to provide  
13 evidence that promulgating a rule under this paragraph as an emergency rule is  
14 necessary for the preservation of the public peace, health, safety, or welfare and is  
15 not required to provide a finding of emergency for a rule promulgated under this  
16 paragraph.

17 (2) INITIAL MEMBERS OF WIRELESS 911 BOARD. Notwithstanding section 15.155 (5)  
18 (b) of the statutes, as created by this act, the initial members of the wireless 911 board  
19 under section 15.155 (5) (a) 5. and 6. of the statutes, as created by this act, shall be  
20 appointed to serve the following terms:

21 (a) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
22 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
23 statutes, as created by this act, for terms expiring on May 1, 2004.

1 (b) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
2 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
3 statutes, as created by this act, for terms expiring on May 1, 2005.

4 (c) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
5 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
6 statutes, as created by this act, for terms expiring on May 1, 2006.

7 (d) One member appointed under section 15.155 (5) (a) 5. of the statutes, as  
8 created by this act, and one member appointed under section 15.155 (5) (a) 6. of the  
9 statutes, as created by this act, for terms expiring on May 1, 2007.

10 (3) POSITION AUTHORIZATION. There is authorized for the wireless 911 board 1.0  
11 FTE PR position, to be funded from the appropriation under section 20.143 (3) (je)  
12 of the statutes, as created by this act, for the purpose of providing administrative  
13 services to the wireless 911 board.

14 (4) STUDY OF RETAIL AND WHOLESALE TELECOMMUNICATIONS SERVICE. The joint  
15 legislative council is requested to study the appropriate level of regulation of retail  
16 and wholesale telecommunications services, the quality of such services, and related  
17 enforcement issues, with a focus on making the transition toward deregulated  
18 markets for such services. If the council undertakes such a study, the council shall  
19 report its findings, conclusions, and recommendations to the 2003 legislature when  
20 it convenes.

21 **SECTION 36. Initial applicability.**

22 (1) TELECOMMUNICATIONS SERVICE. The treatment of section 100.207 (3g), (3m),  
23 and (5g) of the statutes first applies to contracts entered into, extended, modified, or  
24 renewed on the effective date of this subsection.

