



## 97TH GENERAL ASSEMBLY

### State of Illinois

#### 2011 and 2012

##### HB5541

Introduced 2/15/2012, by Rep. Donald L. Moffitt

#### SYNOPSIS AS INTRODUCED:

50 ILCS 751/10  
50 ILCS 751/17  
50 ILCS 751/70

Amends the Wireless Emergency Telephone Safety Act. Defines "Trust Fund". Provides that beginning January 1, 2013, (now, January 1, 2008) the monthly surcharge imposed on wireless carriers shall be \$1.00, rather than \$0.73. Removes provisions concerning amounts per surcharge to be deposited into specified funds. Requires the State Treasurer to deposit \$0.80 per surcharge into the Wireless Service Emergency Fund for distribution to the 9-1-1 authorities and \$0.18 per surcharge into the NG9-1-1 Service Equalization Trust Fund. Provides that 1% of the amounts collected may be distributed to the Illinois Commerce Commission to cover administrative costs. Further provides that in the case of a delinquent report, the Illinois Commerce Commission may impose a penalty on a carrier equal to the product of \$0.1 (now, 1/2¢) and the number of subscribers served by the carrier, and that any penalty imposed shall be deposited into the NG9-1-1 Service Equalization Trust Fund. Provides that the Act is repealed on January 1, 2018 (now, April 1, 2013). Effective January 1, 2013.

LRB097 17249 KMW 62449 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Wireless Emergency Telephone Safety Act is  
5 amended by changing Sections 10, 17, and 70 as follows:

6 (50 ILCS 751/10)

7 (Section scheduled to be repealed on April 1, 2013)

8 Sec. 10. Definitions. In this Act:

9 "Emergency telephone system board" means a board appointed  
10 by the corporate authorities of any county or municipality that  
11 provides for the management and operation of a 9-1-1 system  
12 within the scope of the duties and powers prescribed by the  
13 Emergency Telephone System Act.

14 "Master street address guide" means the computerized  
15 geographical database that consists of all street and address  
16 data within a 9-1-1 system.

17 "Mobile telephone number" or "MTN" shall mean the telephone  
18 number assigned to a wireless telephone at the time of initial  
19 activation.

20 "Prepaid wireless telecommunications service" means  
21 wireless telecommunications service that allows a caller to  
22 dial 9-1-1 to access the 9-1-1 system, which service must be  
23 paid for in advance and is sold in predetermined units or

1 dollars which the amount declines with use in a known amount.

2 "Public safety agency" means a functional division of a  
3 public agency that provides fire fighting, police, medical, or  
4 other emergency services. For the purpose of providing wireless  
5 service to users of 9-1-1 emergency services, as expressly  
6 provided for in this Act, the Department of State Police may be  
7 considered a public safety agency.

8 "Qualified governmental entity" means a unit of local  
9 government authorized to provide 9-1-1 services pursuant to the  
10 Emergency Telephone System Act where no emergency telephone  
11 system board exists.

12 "Remit period" means the billing period, one month in  
13 duration, for which a wireless carrier remits a surcharge and  
14 provides subscriber information by zip code to the Illinois  
15 Commerce Commission, in accordance with Section 17 of this Act.

16 "Statewide wireless emergency 9-1-1 system" means all  
17 areas of the State where an emergency telephone system board  
18 or, in the absence of an emergency telephone system board, a  
19 qualified governmental entity has not declared its intention  
20 for one or more of its public safety answering points to serve  
21 as a primary wireless 9-1-1 public safety answering point for  
22 its jurisdiction. The operator of the statewide wireless  
23 emergency 9-1-1 system shall be the Department of State Police.

24 "Trust Fund" means the NG9-1-1 Service Equalization Trust  
25 Fund.

26 "Wireless carrier" means a provider of two-way cellular,

1 broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial  
2 Mobile Radio Service (CMRS), Wireless Communications Service  
3 (WCS), or other Commercial Mobile Radio Service (CMRS), as  
4 defined by the Federal Communications Commission, offering  
5 radio communications that may provide fixed, mobile, radio  
6 location, or satellite communication services to individuals  
7 or businesses within its assigned spectrum block and  
8 geographical area or that offers real-time, two-way voice  
9 service that is interconnected with the public switched  
10 network, including a reseller of such service.

11 "Wireless enhanced 9-1-1" means the ability to relay the  
12 telephone number of the originator of a 9-1-1 call and location  
13 information from any mobile handset or text telephone device  
14 accessing the wireless system to the designated wireless public  
15 safety answering point as set forth in the order of the Federal  
16 Communications Commission, FCC Docket No. 94-102, adopted June  
17 12, 1996, with an effective date of October 1, 1996, and any  
18 subsequent amendment thereto.

19 "Wireless public safety answering point" means the  
20 functional division of an emergency telephone system board,  
21 qualified governmental entity, or the Department of State  
22 Police accepting wireless 9-1-1 calls.

23 "Wireless subscriber" means an individual or entity to whom  
24 a wireless service account or number has been assigned by a  
25 wireless carrier, other than an account or number associated  
26 with prepaid wireless telecommunication service.

1 (Source: P.A. 97-463, eff. 1-1-12.)

2 (50 ILCS 751/17)

3 (Section scheduled to be repealed on April 1, 2013)

4 Sec. 17. Wireless carrier surcharge.

5 (a) Except as provided in Sections 45 and 80, each wireless  
6 carrier shall impose a monthly wireless carrier surcharge per  
7 CMRS connection that either has a telephone number within an  
8 area code assigned to Illinois by the North American Numbering  
9 Plan Administrator or has a billing address in this State. No  
10 wireless carrier shall impose the surcharge authorized by this  
11 Section upon any subscriber who is subject to the surcharge  
12 imposed by a unit of local government pursuant to Section 45.  
13 Prior to January 1, 2008 (the effective date of Public Act  
14 95-698), the surcharge amount shall be the amount set by the  
15 Wireless Enhanced 9-1-1 Board. Beginning on January 1, 2013  
16 ~~January 1, 2008 (the effective date of Public Act 95-698)~~, the  
17 monthly surcharge imposed under this Section shall be \$1.00  
18 ~~\$0.73~~ per CMRS connection. The wireless carrier that provides  
19 wireless service to the subscriber shall collect the surcharge  
20 from the subscriber. For mobile telecommunications services  
21 provided on and after August 1, 2002, any surcharge imposed  
22 under this Act shall be imposed based upon the municipality or  
23 county that encompasses the customer's place of primary use as  
24 defined in the Mobile Telecommunications Sourcing Conformity  
25 Act. The surcharge shall be stated as a separate item on the

1 subscriber's monthly bill. The wireless carrier shall begin  
2 collecting the surcharge on bills issued within 90 days after  
3 the Wireless Enhanced 9-1-1 Board sets the monthly wireless  
4 surcharge. State and local taxes shall not apply to the  
5 wireless carrier surcharge.

6 (b) Except as provided in Sections 45 and 80, a wireless  
7 carrier shall, within 45 days of collection, remit, either by  
8 check or by electronic funds transfer, to the State Treasurer  
9 the amount of the wireless carrier surcharge collected from  
10 each subscriber. Of the amounts remitted under this subsection  
11 ~~prior to January 1, 2008 (the effective date of Public Act~~  
12 ~~95-698), and for surcharges imposed before January 1, 2008 (the~~  
13 ~~effective date of Public Act 95-698) but remitted after January~~  
14 ~~1, 2008,~~ the State Treasurer shall deposit \$0.80 per surcharge  
15 ~~one third into the Wireless Carrier Reimbursement Fund and~~  
16 ~~two thirds~~ into the Wireless Service Emergency Fund for  
17 distribution to the 9-1-1 authorities,. ~~For surcharges~~  
18 ~~collected and remitted on or after January 1, 2008 (the~~  
19 ~~effective date of Public Act 95-698), \$0.1475 per surcharge~~  
20 ~~collected shall be deposited into the Wireless Carrier~~  
21 ~~Reimbursement Fund,~~ and \$0.18 ~~\$0.5825~~ per surcharge ~~collected~~  
22 shall be deposited into the Trust Fund ~~Wireless Service~~  
23 ~~Emergency Fund.~~ 1% of that ~~Of the amounts deposited into the~~  
24 ~~Wireless Carrier Reimbursement Fund under this subsection,~~  
25 ~~\$0.01 per surcharge~~ collected may be distributed to the  
26 carriers to cover their administrative costs. Of the amounts

1 deposited into the Wireless Service Emergency Fund under this  
2 subsection, \$0.01 per surcharge collected may be disbursed to  
3 the Illinois Commerce Commission to cover its administrative  
4 costs.

5 (c) The first such remittance by wireless carriers shall  
6 include the number of wireless subscribers by zip code, and the  
7 9-digit zip code if currently being used or later implemented  
8 by the carrier, that shall be the means by which the Illinois  
9 Commerce Commission shall determine distributions to the 9-1-1  
10 authorities from the Wireless Service Emergency Fund. This  
11 information shall be updated no less often than every year, and  
12 the resulting data shall be shared with the Illinois Next  
13 Generation 9-1-1 Network (INGN). Wireless carriers are not  
14 required to remit surcharge moneys that are billed to  
15 subscribers but not yet collected. Any carrier that fails to  
16 provide the zip code information required under this subsection  
17 (c) shall be subject to the penalty set forth in subsection (f)  
18 of this Section.

19 (d) Any funds collected under the Prepaid Wireless 9-1-1  
20 Surcharge Act shall be distributed using a prorated method  
21 based upon zip code information collected from post-paid  
22 wireless carriers under subsection (c) of this Section.

23 (e) If before midnight on the last day of the third  
24 calendar month after the closing date of the remit period a  
25 wireless carrier does not remit the surcharge or any portion  
26 thereof required under this Section, then the surcharge or

1 portion thereof shall be deemed delinquent until paid in full,  
2 and the Illinois Commerce Commission may impose a penalty  
3 against the carrier in an amount equal to the greater of:

4 (1) \$25 for each month or portion of a month from the  
5 time an amount becomes delinquent until the amount is paid  
6 in full; or

7 (2) an amount equal to the product of 1% and the sum of  
8 all delinquent amounts for each month or portion of a month  
9 that the delinquent amounts remain unpaid.

10 A penalty imposed in accordance with this subsection (e)  
11 for a portion of a month during which the carrier provides the  
12 number of subscribers by zip code as required under subsection  
13 (c) of this Section shall be prorated for each day of that  
14 month during which the carrier had not provided the number of  
15 subscribers by zip code as required under subsection (c) of  
16 this Section. Any penalty imposed under this subsection (e) is  
17 in addition to the amount of the delinquency and is in addition  
18 to any other penalty imposed under this Section.

19 (f) If, before midnight on the last day of the third  
20 calendar month after the closing date of the remit period, a  
21 wireless carrier does not provide the number of subscribers by  
22 zip code as required under subsection (c) of this Section, then  
23 the report is deemed delinquent and the Illinois Commerce  
24 Commission may impose a penalty against the carrier in an  
25 amount equal to the greater of:

26 (1) \$25 for each month or portion of a month that the



1 report is delinquent; or

2 (2) an amount equal to the product of \$0.1 ~~1/2¢~~ and the  
3 number of subscribers served by the wireless carrier.

4 A penalty imposed in accordance with this subsection (f)  
5 for a portion of a month during which the carrier pays the  
6 delinquent amount in full shall be prorated for each day of  
7 that month that the delinquent amount was paid in full. Any  
8 penalty imposed under this subsection (f) is in addition to any  
9 other penalty imposed under this Section. A penalty imposed  
10 under this subsection shall be deposited into the Trust Fund.

11 (g) The Illinois Commerce Commission may enforce the  
12 collection of any delinquent amount and any penalty due and  
13 unpaid under this Section by legal action or in any other  
14 manner by which the collection of debts due the State of  
15 Illinois may be enforced under the laws of this State. The  
16 Executive Director of the Illinois Commerce Commission, or his  
17 or her designee, may excuse the payment of any penalty imposed  
18 under this Section if the Executive Director, or his or her  
19 designee, determines that the enforcement of this penalty is  
20 unjust.

21 (h) Notwithstanding any provision of law to the contrary,  
22 nothing shall impair the right of wireless carriers to recover  
23 compliance costs for all emergency communications services  
24 that are not reimbursed out of the Wireless Carrier  
25 Reimbursement Fund directly from their wireless subscribers  
26 via line-item charges on the wireless subscriber's bill. Those

1 compliance costs include all costs incurred by wireless  
2 carriers in complying with local, State, and federal regulatory  
3 or legislative mandates that require the transmission and  
4 receipt of emergency communications to and from the general  
5 public, including, but not limited to, E-911.

6 (i) The Auditor General shall conduct, on an annual basis,  
7 an audit of the Wireless Service Emergency Fund and the  
8 Wireless Carrier Reimbursement Fund for compliance with the  
9 requirements of this Act. The audit shall include, but not be  
10 limited to, the following determinations:

11 (1) Whether the Commission is maintaining detailed  
12 records of all receipts and disbursements from the Wireless  
13 Carrier Emergency Fund and the Wireless Carrier  
14 Reimbursement Fund.

15 (2) Whether the Commission's administrative costs  
16 charged to the funds are adequately documented and are  
17 reasonable.

18 (3) Whether the Commission's procedures for making  
19 grants and providing reimbursements in accordance with the  
20 Act are adequate.

21 (4) The status of the implementation of wireless 9-1-1  
22 and E9-1-1 services in Illinois.

23 The Commission, the Department of State Police, and any  
24 other entity or person that may have information relevant to  
25 the audit shall cooperate fully and promptly with the Office of  
26 the Auditor General in conducting the audit. The Auditor

1 General shall commence the audit as soon as possible and  
2 distribute the report upon completion in accordance with  
3 Section 3-14 of the Illinois State Auditing Act.

4 (Source: P.A. 97-463, eff. 1-1-12.)

5 (50 ILCS 751/70)

6 (Section scheduled to be repealed on April 1, 2013)

7 Sec. 70. Repealer. This Act is repealed on January 1, 2018  
8 ~~April 1, 2013.~~

9 (Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08.)

10 Section 99. Effective date. This Act takes effect January  
11 1, 2013.