



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3073

by Rep. John E. Bradley - Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

50 ILCS 751/17
50 ILCS 751/70
220 ILCS 5/13-900
220 ILCS 5/13-1200

Amends the Wireless Emergency Telephone Safety Act. Provides that on and after July 1, 2013, \$0.70 per surcharge collected shall be deposited into the Wireless Service Emergency Fund for distribution to 9-1-1 authorities, \$0.02 per surcharge collected shall be deposited into the Wireless Service Emergency Fund and distributed to County Emergency Telephone System Boards in counties with a population under 250,000, and \$0.01 per surcharge collected may be disbursed to the Illinois Commerce Commission for administrative costs. Permits the Illinois Commerce Commission to impose a penalty on a carrier equal to the product of \$0.01 (now \$0.005) and the number of subscribers served by the wireless carrier, and that any penalty collected shall be deposited into the Wireless Service Emergency Fund. Permits the Illinois Commerce Commission to require an annual report of income and expenditures from each emergency telephone systems board or qualified governmental entity providing 9-1-1 service, and the report may include a copy of the entity's audited financial statement. Amends this Act to be repealed on July 1, 2018 (now July 1, 2013). Amends the Public Utilities Act by repealing a Section regarding authority to serve as a 9-1-1 system provider on July 1, 2016 (now July 1, 2013). Amends the repealer Section to reflect this change. Effective immediately.

LRB098 10645 OMW 40931 b

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 17 and 70 as follows:

6 (50 ILCS 751/17)

7 (Section scheduled to be repealed on July 1, 2013)

8 Sec. 17. Wireless carrier surcharge.

9 (a) Except as provided in Sections 45 and 80, each wireless
10 carrier shall impose a monthly wireless carrier surcharge per
11 CMRS connection that either has a telephone number within an
12 area code assigned to Illinois by the North American Numbering
13 Plan Administrator or has a billing address in this State. No
14 wireless carrier shall impose the surcharge authorized by this
15 Section upon any subscriber who is subject to the surcharge
16 imposed by a unit of local government pursuant to Section 45.
17 Prior to January 1, 2008 (the effective date of Public Act
18 95-698), the surcharge amount shall be the amount set by the
19 Wireless Enhanced 9-1-1 Board. Beginning on January 1, 2008
20 (the effective date of Public Act 95-698), the monthly
21 surcharge imposed under this Section shall be \$0.73 per CMRS
22 connection. The wireless carrier that provides wireless
23 service to the subscriber shall collect the surcharge from the

1 subscriber. For mobile telecommunications services provided on
2 and after August 1, 2002, any surcharge imposed under this Act
3 shall be imposed based upon the municipality or county that
4 encompasses the customer's place of primary use as defined in
5 the Mobile Telecommunications Sourcing Conformity Act. The
6 surcharge shall be stated as a separate item on the
7 subscriber's monthly bill. The wireless carrier shall begin
8 collecting the surcharge on bills issued within 90 days after
9 the Wireless Enhanced 9-1-1 Board sets the monthly wireless
10 surcharge. State and local taxes shall not apply to the
11 wireless carrier surcharge.

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

1 Wireless Service Emergency Fund. Of the amounts deposited into
2 the Wireless Carrier Reimbursement Fund under this subsection,
3 \$0.01 per surcharge collected may be distributed to the
4 carriers to cover their administrative costs. Of the amounts
5 deposited into the Wireless Service Emergency Fund under this
6 subsection, \$0.01 per surcharge collected may be disbursed to
7 the Illinois Commerce Commission to cover its administrative
8 costs.

9 For surcharges collected and remitted on or after July 1,
10 2013, \$0.70 per surcharge collected shall be deposited into the
11 Wireless Service Emergency Fund for distribution to 9-1-1
12 authorities, \$0.02 per surcharge collected shall be deposited
13 into the Wireless Service Emergency Fund and distributed to
14 County Emergency Telephone System Boards in counties with a
15 population under 250,000, and \$0.01 per surcharge collected may
16 be disbursed to the Illinois Commerce Commission for
17 administrative costs.

18 (c) The first such remittance by wireless carriers shall
19 include the number of wireless subscribers by zip code, and the
20 9-digit zip code if currently being used or later implemented
21 by the carrier, that shall be the means by which the Illinois
22 Commerce Commission shall determine distributions from the
23 Wireless Service Emergency Fund. This information shall be
24 updated no less often than every year. Wireless carriers are
25 not required to remit surcharge moneys that are billed to
26 subscribers but not yet collected. Any carrier that fails to

1 provide the zip code information required under this subsection
2 (c) shall be subject to the penalty set forth in subsection (f)
3 of this Section.

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

8 (e) If before midnight on the last day of the third
9 calendar month after the closing date of the remit period a
10 wireless carrier does not remit the surcharge or any portion
11 thereof required under this Section, then the surcharge or
12 portion thereof shall be deemed delinquent until paid in full,
13 and the Illinois Commerce Commission may impose a penalty
14 against the carrier in an amount equal to the greater of:

15 (1) \$25 for each month or portion of a month from the
16 time an amount becomes delinquent until the amount is paid
17 in full; or

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

21 A penalty imposed in accordance with this subsection (e)
22 for a portion of a month during which the carrier provides the
23 number of subscribers by zip code as required under subsection
24 (c) of this Section shall be prorated for each day of that
25 month during which the carrier had not provided the number of
26 subscribers by zip code as required under subsection (c) of

1 this Section. Any penalty imposed under this subsection (e) is
2 in addition to the amount of the delinquency and is in addition
3 to any other penalty imposed under this Section.

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

11 (1) \$25 for each month or portion of a month that the
12 report is delinquent; or

13 (2) an amount equal to the product of 1/2¢ and the
14 number of subscribers served by the wireless carrier. On
15 and after July 1, 2013, an amount equal to the product of
16 \$0.01 and the number of subscribers served by the wireless
17 carrier.

18 A penalty imposed in accordance with this subsection (f)
19 for a portion of a month during which the carrier pays the
20 delinquent amount in full shall be prorated for each day of
21 that month that the delinquent amount was paid in full. A
22 penalty imposed and collected in accordance with subsection (f)
23 of this Section shall be deposited into the Wireless Service
24 Emergency Fund. Any penalty imposed under this subsection (f)
25 is in addition to any other penalty imposed under this Section.

26 (g) The Illinois Commerce Commission may enforce the

1 collection of any delinquent amount and any penalty due and
2 unpaid under this Section by legal action or in any other
3 manner by which the collection of debts due the State of
4 Illinois may be enforced under the laws of this State. The
5 Executive Director of the Illinois Commerce Commission, or his
6 or her designee, may excuse the payment of any penalty imposed
7 under this Section if the Executive Director, or his or her
8 designee, determines that the enforcement of this penalty is
9 unjust.

10 (h) Notwithstanding any provision of law to the contrary,
11 nothing shall impair the right of wireless carriers to recover
12 compliance costs for all emergency communications services
13 that are not reimbursed out of the Wireless Carrier
14 Reimbursement Fund directly from their wireless subscribers
15 via line-item charges on the wireless subscriber's bill. Those
16 compliance costs include all costs incurred by wireless
17 carriers in complying with local, State, and federal regulatory
18 or legislative mandates that require the transmission and
19 receipt of emergency communications to and from the general
20 public, including, but not limited to, E-911.

21 (i) The Auditor General shall conduct, on an annual basis,
22 an audit of the Wireless Service Emergency Fund and the
23 Wireless Carrier Reimbursement Fund for compliance with the
24 requirements of this Act. The audit shall include, but not be
25 limited to, the following determinations:

26 (1) Whether the Commission is maintaining detailed

1 records of all receipts and disbursements from the Wireless
2 Carrier Emergency Fund and the Wireless Carrier
3 Reimbursement Fund.

4 (2) Whether the Commission's administrative costs
5 charged to the funds are adequately documented and are
6 reasonable.

7 (3) Whether the Commission's procedures for making
8 grants and providing reimbursements in accordance with the
9 Act are adequate.

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

12 The Commission, the Department of State Police, and any
13 other entity or person that may have information relevant to
14 the audit shall cooperate fully and promptly with the Office of
15 the Auditor General in conducting the audit. The Auditor
16 General shall commence the audit as soon as possible and
17 distribute the report upon completion in accordance with
18 Section 3-14 of the Illinois State Auditing Act.

19 (j) The Illinois Commerce Commission may require an annual
20 report of income and expenditures from each emergency telephone
21 systems board or qualified governmental entity providing 9-1-1
22 service in a form and manner prescribed by the Commission. The
23 report may require the inclusion of a copy of the audited
24 financial statements of each emergency telephone systems board
25 or qualified governmental entity providing 9-1-1 service.

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

1 (50 ILCS 751/70)

2 (Section scheduled to be repealed on July 1, 2013)

3 Sec. 70. Repealer. This Act is repealed on July 1, 2018
4 ~~2013~~.

5 (Source: P.A. 97-1163, eff. 2-4-13.)

6 Section 10. The Public Utilities Act is amended by changing
7 Sections 13-900 and 13-1200 as follows:

8 (220 ILCS 5/13-900)

9 (Section scheduled to be repealed on July 1, 2013)

10 Sec. 13-900. Authority to serve as 9-1-1 system provider;
11 rules.

12 (a) The General Assembly finds that it is necessary to
13 require the certification of 9-1-1 system providers to ensure
14 the safety of the lives and property of Illinoisans and
15 Illinois businesses, and to otherwise protect and promote the
16 public safety, health, and welfare of the citizens of this
17 State and their property.

18 (b) For purposes of this Section:

19 "9-1-1 system" has the same meaning as that term is
20 defined in Section 2.19 of the Emergency Telephone System
21 Act.

22 "9-1-1 system provider" means any person, corporation,
23 limited liability company, partnership, sole

1 proprietorship, or entity of any description whatever that
2 acts as a system provider within the meaning of Section
3 2.18 of the Emergency Telephone System Act.

4 "Emergency Telephone System Board" has the same
5 meaning as that term is defined in Sections 2.11 and 15.4
6 of the Emergency Telephone System Act.

7 "Public safety agency personnel" means personnel
8 employed by a public safety agency, as that term is defined
9 in Section 2.02 of the Emergency Telephone System Act,
10 whose responsibilities include responding to requests for
11 emergency services.

12 (c) Except as otherwise provided in this Section, beginning
13 July 1, 2010, it is unlawful for any 9-1-1 system provider to
14 offer or provide or seek to offer or provide to any emergency
15 telephone system board or 9-1-1 system, or agent,
16 representative, or designee thereof, any network and database
17 service used or intended to be used by any emergency telephone
18 system board or 9-1-1 system for the purpose of answering,
19 transferring, or relaying requests for emergency services, or
20 dispatching public safety agency personnel in response to
21 requests for emergency services, unless the 9-1-1 system
22 provider has applied for and received a Certificate of 9-1-1
23 System Provider Authority from the Commission. The Commission
24 shall approve an application for a Certificate of 9-1-1 System
25 Provider Authority upon a showing by the applicant, and a
26 finding by the Commission, after notice and hearing, that the

1 applicant possesses sufficient technical, financial, and
2 managerial resources and abilities to provide network service
3 and database services that it seeks authority to provide in its
4 application for service authority, in a safe, continuous, and
5 uninterrupted manner.

6 (d) No incumbent local exchange carrier that provides, as
7 of the effective date of this amendatory Act of the 96th
8 General Assembly, any 9-1-1 network and 9-1-1 database service
9 used or intended to be used by any Emergency Telephone System
10 Board or 9-1-1 system, shall be required to obtain a
11 Certificate of 9-1-1 System Provider Authority under this
12 Section. No entity that possesses, as of the effective date of
13 this amendatory Act of the 96th General Assembly, a Certificate
14 of Service Authority and provides 9-1-1 network and 9-1-1
15 database services to any incumbent local exchange carrier as of
16 the effective date of this amendatory Act of the 96th General
17 Assembly shall be required to obtain a Certificate of 9-1-1
18 System Provider Authority under this Section.

19 (e) Any and all enforcement authority granted to the
20 Commission under this Section shall apply exclusively to 9-1-1
21 system providers granted a Certificate of Service Authority
22 under this Section and shall not apply to incumbent local
23 exchange carriers that are providing 9-1-1 service as of the
24 effective date of this amendatory Act of the 96th General
25 Assembly.

26 (f) This Section is repealed on July 1, 2016.

1 (Source: P.A. 96-25, eff. 6-30-09.)

2 (220 ILCS 5/13-1200)

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

4 Sec. 13-1200. Repealer. This Article is repealed July 1,
5 2013, except as provided in Section 13-900 of this Article..

6 (Source: P.A. 95-9, eff. 6-30-07; 96-24, eff. 6-30-09; 96-927,
7 eff. 6-15-10.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.