



WISCONSIN LEGISLATIVE COUNCIL LEGAL MEMORANDUM

Wireless 911 System Grant Program [2003 Wisconsin Act 48]

INTRODUCTION

2003 Wisconsin Act 48 creates a three-year grant program administered by the Public Service Commission (PSC) to reimburse local governments and wireless telephone service providers certain costs related to providing enhanced wireless 911 service. The Act funds the grant program by imposing a temporary surcharge on the bills of wireless service customers in Wisconsin.

The Act was passed by the Legislature on July 24, 2003 and signed, with partial vetoes, by Governor Jim Doyle on August 18, 2003. The Act takes effect on September 3, 2003.

This memorandum provides background information on wireless 911 service and relevant Federal Communications Commission (FCC) requirements and summarizes the new law and the Governor's partial vetoes.

BACKGROUND

WIRELESS 911 SERVICE

Facilities that receive and process emergency calls placed to 911 are referred to as public safety answering points (PSAPs). There are 138 PSAPs in Wisconsin that receive 911 calls from conventional, landline telephones. Seventy-one of these are operated by counties, 64 by

municipalities, two by the University of Wisconsin, and one by the federal government at Ft. McCoy. Currently, all wireless calls to 911 are routed to county PSAPs or call centers.

“Enhanced 911 service” provides PSAPs with information regarding the telephone number and location (street address) of the caller. The principal benefit of this is that emergency services can be dispatched in response to the call, even if the caller cannot accurately identify his or her location to the PSAP. Most (but not all) PSAPs in Wisconsin currently have enhanced 911 capabilities for calls coming in from conventional, landline telephones.

Additional equipment and computer software are required to provide this capability for calls coming in from wireless (mobile) telephones. No PSAPs in Wisconsin currently have enhanced 911 capabilities for wireless calls, although some have made substantial investments to acquire these capabilities. As a result, a call from a mobile telephone to 911 will connect the caller to a PSAP, but will not give the PSAP information regarding the caller's telephone number or location.

Wireless service providers also need special equipment and software to make enhanced 911 service possible for wireless calls. Two technologies are currently available. The *handset-based* approach places global positioning system (GPS) chips in the handsets,

which are located by satellites. The *network-based* approach relies on multiple cell towers receiving the call, allowing location of the caller by triangulation. Some applications combine these technologies.

FCC REQUIREMENTS

There is no requirement that PSAPs develop enhanced wireless 911 capabilities. However, there is a strong desire, led by the public safety community and the FCC, to develop these capabilities across the country. This is driven in part by the sense that the public expects wireless 911 calls to be handled with the same response capabilities as landline calls and, in fact, believes that this is already the case.

The FCC has adopted a series of orders that require wireless providers to transmit all wireless 911 calls to the appropriate designated PSAP and to provide the telephone number and, to specified accuracies, the location of the caller. The FCC has established a complicated phase-in schedule that varies depending on the technology chosen by the wireless provider and the size of the company. However, in general, a wireless provider must provide this service only when all of the following conditions are met:

1. The administrator of a PSAP has requested the service.
2. The PSAP is capable of receiving and utilizing the information associated with the service.
3. The PSAP has a mechanism in place to recover the cost of the service.

ACT 48

GRANTS

Local governments may receive reimbursement for costs incurred during the reimbursement period for leasing, purchasing, operating, or

maintaining a wireless PSAP and for certain costs incurred before the reimbursement period. Major features of the local government grant program include the following:

- The Act allows only ***one grant per county***, which must be made to a local government designated by resolution by the county Board of Supervisors. A local government must provide wireless 911 service to ***the entire area of the county*** that designates it to receive a grant, minus the area of any city, village, or town that adopts a resolution ***opting out*** of the county-designated PSAP and commits to using its own or another PSAP. A county or municipal PSAP subject to either of these types of resolutions is a ***state-designated PSAP***. Only these PSAPs may demand that wireless providers transfer 911 calls to them and provide caller identity and location information for those calls under the FCC's regulations.
- ***Grant eligible*** costs incurred during the reimbursement period specifically include:
 - ◆ Network equipment, computer hardware and software, database equipment, and radio and telephone equipment within the PSAP.
 - ◆ Collection and maintenance of data used by the PSAP. For collection of data that is part of a land information system (also known as "GIS"), the data collection and system development must be consistent with the county's existing land records modernization plans, conform with the standards on which such plans are based, and not duplicate land information collection and other efforts funded through the state land information program. The PSC must consult with the Land Information Board (LIB) on whether a grant application meets these requirements.

- ◆ PSAP operator training.
- ◆ Network costs to deliver calls from a wireless provider to the PSAP.
- **Costs** incurred *after January 1, 1999* and before the reimbursement period for the costs identified in the first two bullet points in the preceding list are also grant eligible.
- **Costs** for *relaying location and other information* relating to a wireless 911 call via data communications from the PSAP to an existing local government emergency call center that dispatches appropriate responders incurred during the reimbursement period *may be grant eligible* if the PSC includes these costs in its grant rules after determining that reimbursement of the costs is in the public interest, and promotes public health and safety.
- The Act specifically *excludes costs* for the following from grants:
 - ◆ Emergency service dispatch.
 - ◆ Vehicles and equipment on vehicles.
 - ◆ Communications equipment and software used to communicate with vehicles.
 - ◆ Real estate and improvements to real estate, other than improvements to maintain PSAP security.
 - ◆ PSAP operator salaries and benefits.
- Grants to local governments *may not reimburse costs* that a local government recovers in the form of gifts or grants from other sources.
- To encourage further consolidation of services, the Act directs the PSC to make *supplemental grants* to multi-county

PSAPs. Supplemental grants may be used for any governmental purpose.

Wireless providers may receive reimbursement for costs incurred during the reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the orders of the FCC related to enhanced wireless 911 service. They may *not* receive reimbursement for costs they recover during the reimbursement period or have previously recovered from their customers in this state related to providing wireless 911 service in this state.

Under the Act, a local government or a wireless provider may submit a *late grant application* to the PSC and still receive a grant, subject to a penalty in the form of a reduced grant award. In addition, a local government or wireless provider may *revise its grant application* after the PSC has approved the application, pursuant to conditions specified by the PSC by rule.

The *reimbursement period* includes the three-year period during which the surcharge may be imposed plus the period of time between the effective date of the Act and this three-year period, during which time the PSC is preparing rules related to the program.

FUNDING

The PSC must promulgate rules requiring wireless providers to impose *a surcharge on their customers' bills*. Bills must identify the surcharge as the "federal wireless 911 mandate fee." The surcharge must be uniform and must be sufficient to cover the cost of administering the program and to make grants. Once imposed, the surcharge will be collected for three years. Surcharge revenues are deposited in the Wireless 911 Fund, created by the Act.

The Act prohibits local governments and state agencies other than the PSC from requiring

wireless providers to collect a surcharge or fee related to wireless 911 service.

OTHER PROVISIONS

The Act *expands the exemption from liability* related to 911 service. Under current law, telecommunications utilities are not liable to persons who use the landline 911 system. Under the Act, telecommunications utilities, wireless providers, and local governments are not liable to persons who use either landline or wireless 911 systems.

The Act requires the PSC to give *confidential treatment to information* it obtains while administering the program, if the information could aid a competitor.

The Act states that it does not affect the *wireless providers' exemption from PSC regulation* that is contained in current law.

IMPLEMENTATION SCHEDULE

The implementation schedule for the grant program created by the Act, including estimates of the reimbursement period and the time that will be required for the initial stages prior to the awarding of grants and the imposition of the surcharge, is illustrated in the attachment. The attached schedule is based upon assumptions of expeditious rule development by the PSC; actual implementation could take longer. This implementation involves the following steps:

1. Following enactment of the Act, the PSC will develop *rules regarding grants*. These rules will establish requirements and procedures for making grants, including application requirements.

2. Following promulgation of the grant rules, *counties will designate local governments* that will be the local government grant recipients and *local governments and wireless providers* will prepare and submit to the PSC *cost estimates and grant applications*.

3. Following receipt of the applications, the PSC will evaluate the cost estimates and *promulgate rules setting the surcharge* at a level sufficient to fund the cost of all approved grant applications plus program administration.

4. Following promulgation of the surcharge rules, for a period of three years, wireless providers will *collect surcharges* and the PSC will *make grants*.

5. The program *sunset*s four months after the end of the reimbursement period.

PARTIAL VETOES

In approving Enrolled 2003 Assembly Bill 61 as Act 48, Governor Doyle vetoed the following provisions in the enrolled bill:

- The creation of a cooperative purchasing program, under which Department of Administration (DOA) procurement personnel would facilitate purchases, leases, and service contracts by local government grant recipients. The vetoed provisions included the requirement that a local government grant recipient that did not purchase through the program, when a practicable option is or subsequently becomes available through it, would not be reimbursed for that grant item more than the cost that would have been incurred if the procurement had been made through the DOA program.
- Three of the four conditions that were prerequisites in the enrolled bill for the PSC to authorize including in the costs for relaying location and other information relating to a wireless 911 call from a PSAP to an existing local government emergency call center. These conditions would have required the PSC to collect information on these expected costs and determine that the expected costs would be no more than 5% of the overall cost of the statewide wireless 911

system and would not be a disincentive to consolidation of dispatch functions by these call centers. As described above, the Governor retained the condition that the PSC must determine that the reimbursement of these costs is in the public interest and promotes public health and safety.

Copies of 2003 Wisconsin Act 48 may be obtained from the Legislature's web site at <http://www.legis.state.wi/2003/data/acts/>. The Legislative Council Act Memo on Act 48 contains a two page overview of Act 48 and is available at http://www.legis.state.wi.us/lc/act_memo/act_memo.htm.

The information memorandum is not a policy statement of the Joint Legislative Council or its staff.

The memorandum was prepared on August 20, 2003, by John Stolzenberg, Chief of Research Services, and David L. Lovell, Senior Analyst.

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Wireless 911 Program Schedule Under 2003 Wisconsin Act 48 ¹

TASK	2003		2004		2005		2006		2007		2008												
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
PSC Submits Proposed Grant Rule to LC Rules Clearinghouse																							
PSC Promulgates Grant Rule ^{1/}																							
PSC Grant Rule Effective																							
Counties Designate PSAPs																							
Local Governments & Wireless Providers Submit Grant Applications to PSC																							
PSC Approves Applications, Computes Surcharge & Submits Proposed Surcharge Rule to LC Rules Clearinghouse																							
PSC Promulgates Surcharge Rule ^{1/}																							
PSC Surcharge Rule Effective																							
Wireless Providers Collect Surcharge																							
PSC Awards Grants																							
Reimbursement Period																							
<p>◆ Deadline In Bill ▼ Estimated Date ▲ Relative Deadline in Bill</p>																							

Note: 1. The estimated dates for the PSC to promulgate the two rules under the program are based on expeditious rule development. The dates could be delayed for a number of reasons, including that a Legislative standing committee reviewing a rule requests an extension of its review period or a modification in the rule.
 Prepared by John Stoizenberg, Legislative Council, August 20, 2003.