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Session of 2012

## SENATE BILL No. 384

By Committee on Utilities

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1 AN ACT concerning the Kansas 911 act; definitions; terms of council  
2 members; fees, distribution; amending K.S.A. 2011 Supp. 12-5363, 12-  
3 5364 and 12-5374 and repealing the existing sections.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 12-5363 is hereby amended to read as  
7 follows: 12-5363. As used in the Kansas 911 act:

8 (a) "Consumer" means a person who purchases prepaid wireless  
9 service in a retail transaction.

10 (b) "Department" means the Kansas department of revenue.

11 (c) "Enhanced 911 service" or "E-911 service" means an emergency  
12 telephone service that generally may provide, but is not limited to,  
13 selective routing, automatic number identification and automatic location  
14 identification features.

15 (d) "Exchange telecommunications service" means the service that  
16 provides local telecommunications exchange access to a service user.

17 (e) "Governing body" means the board of county commissioners of a  
18 county or the governing body of a city.

19 (f) "Local collection point administrator" or "LCPA" means, on the  
20 effective date of this act, the statewide association of cities established by  
21 K.S.A. 12-1610e, and amendments thereto, and the statewide association  
22 of counties established by K.S.A. 19-2690, and amendments thereto. After  
23 January 1, 2012, "local collection point administrator" means the person  
24 designated by the 911 coordinating council to serve as the local collection  
25 point administrator to collect and distribute 911 fees and 911 state grant  
26 fund moneys.

27 (g) *"Multi-line telephone system" means a system comprised of*  
28 *common control units, telephones and control hardware and software*  
29 *providing local telephone service to multiple end-use customers that may*  
30 *include VoIP service and network and premises based systems such as*  
31 *centrex, private branch exchange and hybrid key telephone systems.*

32 ~~(g)~~ (h) "Next generation 911" means 911 service that enables PSAPs  
33 to receive Enhanced 911 service calls and emergency calls from Internet  
34 Protocol (IP) based technologies and applications that may include text  
35 messaging, image, video and data information from callers.

36 ~~(h)~~ (i) "Person" means any individual, firm, partnership,

1 copartnership, joint venture, association, cooperative organization,  
2 corporation, municipal or private, and whether organized for profit or not,  
3 state, county, political subdivision, state department, commission, board,  
4 bureau or fraternal organization, nonprofit organization, estate, trust,  
5 business or common law trust, receiver, assignee for the benefit of  
6 creditors, trustee or trustee in bankruptcy or any other legal entity.

7 (†) (j) "Prepaid wireless service" means a wireless  
8 telecommunications service that allows a caller to dial 911 to access the  
9 911 system, which service must be paid for in advance and is sold in  
10 predetermined units or dollars of which the number declines with use in a  
11 known amount.

12 (†) (k) "Place of primary use" has the meaning provided in the mobile  
13 telecommunications act as defined by 4 U.S.C. § 116 *et seq.*, as in effect  
14 on the effective date of this act.

15 (†) (l) "Provider" means any person providing exchange  
16 telecommunications service, wireless telecommunications service, VoIP  
17 service or other service capable of contacting a PSAP.

18 (†) (m) "PSAP" means a public safety answering point operated by a  
19 city or county.

20 (†) (n) "Retail transaction" means the purchase of prepaid wireless  
21 service from a seller for any purpose other than resale, not including the  
22 use, storage or consumption of such services.

23 (†) (o) "Seller" means a person who sells prepaid wireless service to  
24 another person.

25 (†) (p) "Service user" means any person who is provided exchange  
26 telecommunications service, wireless telecommunications service, VoIP  
27 service, prepaid wireless service or any other service capable of contacting  
28 a PSAP.

29 (†) (q) "Subscriber account" means the 10-digit access number  
30 assigned to a service user ~~regardless of whether more than one such~~  
31 ~~number is aggregated~~ by a provider for the purpose of billing a service  
32 user up to the maximum capacity of the simultaneous outbound calling  
33 capability of a multi-line telephone system or equivalent service.

34 (†) (r) "Subscriber radio equipment" means mobile and portable radio  
35 equipment installed in vehicles or carried by persons for voice  
36 communication with a radio system.

37 (†) (s) "VoIP service" means voice over internet protocol.

38 (†) (t) "Wireless telecommunications service" means commercial  
39 mobile radio service as defined by 47 C.F.R. § 20.3 as in effect on the  
40 effective date of this act.

41 Sec. 2. K.S.A. 2011 Supp. 12-5364 is hereby amended to read as  
42 follows: 12-5364. (a) (1) There is hereby created the 911 coordinating  
43 council which shall monitor the delivery of 911 services, develop

1 strategies for future enhancements to the 911 system and distribute  
2 available grant funds to PSAPs. In as much as possible, the council shall  
3 include individuals with technical expertise regarding 911 systems,  
4 internet technology and GIS technology.

5 (2) The 911 coordinating council shall consist of 12 voting members  
6 to be appointed by the governor: Two members representing information  
7 technology personnel from government units; one member representing a  
8 law enforcement officer; one member representing a fire chief; one  
9 member recommended by the adjutant general; one member recommended  
10 by the Kansas emergency medical services board; one member  
11 recommended by the Kansas commission for the deaf and hard of hearing;  
12 two members representing PSAPs located in counties with less than  
13 75,000 in population; two members representing PSAPs located in  
14 counties with greater than 75,000 in population; and one member  
15 representing PSAPs without regard to size. At least two of the members  
16 representing PSAPs shall be administrators of a PSAP or have extensive  
17 prior 911 experience in Kansas.

18 (3) Other voting members of the 911 coordinating council shall  
19 include: One member of the Kansas house of representatives as appointed  
20 by the speaker of the house; one member of the Kansas house of  
21 representatives as appointed by the minority leader of the house; one  
22 member of the Kansas senate as appointed by the senate president; and one  
23 member of the Kansas senate as appointed by the senate minority leader.

24 (4) The 911 coordinating council shall also include nonvoting  
25 members to be appointed by the governor: One member representing rural  
26 telecommunications companies recommended by the Kansas rural  
27 independent telephone companies; one member representing incumbent  
28 local exchange carriers with over 50,000 access lines; one member  
29 representing large wireless providers; one member representing VoIP  
30 providers; one member recommended by the league of Kansas  
31 municipalities; one member recommended by the Kansas association of  
32 counties; one member recommended by the Kansas geographic  
33 information systems policy board; one member recommended by KAN-  
34 ED; one member recommended by the Kansas division of information  
35 systems and communications; and one member, a Kansas resident,  
36 recommended by the Mid-America regional council.

37 (b) (1) *Except as provided in subsection (b)(2)*, the terms of office for  
38 voting members of the 911 coordinating council shall commence on the  
39 effective date of this act and shall be subject to reappointment every three  
40 years. No voting member shall serve longer than two *successive* three-year  
41 terms. A voting member appointed as a replacement for another voting  
42 member may finish the term of the predecessor and may serve two  
43 additional *successive* three-year terms.

1 (2) The following members, whose terms began on the effective date  
2 of this act, shall serve initial terms as follows:

3 (A) One member representing information technology personnel from  
4 government units, one member recommended by the adjutant general, one  
5 member representing PSAPs located in counties with less than 75,000 in  
6 population and one member representing PSAPs located in counties with  
7 greater than 75,000 in population shall serve a term of two years;

8 (B) one member representing information technology personnel from  
9 government units, one member recommended by the Kansas emergency  
10 medical services board, one member representing PSAPs located in  
11 counties with less than 75,000 in population and one member representing  
12 PSAPs without regard to size shall serve a term of three years; and

13 (C) one member representing a fire chief, one member recommended  
14 by the Kansas commission for the deaf and hard of hearing and one  
15 member representing PSAPs located in counties with greater than 75,000  
16 in population shall serve a term of four years.

17 (3) The terms of members specified in this subsection shall expire on  
18 June 30 in the last year of such member's term.

19 (c) (1) The governor shall select the chair of the 911 coordinating  
20 council, who shall serve at the pleasure of the governor and have extensive  
21 prior 911 experience in Kansas.

22 (2) The chair shall serve as the coordinator of E-911 services and next  
23 generation 911 services in the state, implement statewide 911 planning,  
24 have the authority to sign all certifications required under 47 C.F.R. part  
25 400 and administer the 911 federal grant fund and 911 state maintenance  
26 fund. The chair shall serve subject to the direction of the council and  
27 ensure that policies adopted by the council are carried out. The chair shall  
28 serve as the liaison between the council and the LCPA. The chair shall  
29 preside over all meetings of the council and assist the council in  
30 effectuating the provisions of this act.

31 (d) Upon the advice and consent of the legislative coordinating  
32 council, the 911 coordinating council shall select the local collection point  
33 administrator, pursuant to K.S.A. 2011 Supp. 12-5367, and amendments  
34 thereto, to collect 911 fees and to distribute such fees to PSAPs and to  
35 distribute 911 state grant fund moneys as directed by the council. The  
36 council shall adopt rules and regulations for the terms of the contract with  
37 the LCPA. All contract terms and conditions shall satisfy all contract  
38 requirements as established by the secretary of administration. The council  
39 may, pursuant to rules and regulations, increase the duration of the contract  
40 with the LCPA to a maximum of three years. The council shall determine  
41 the compensation of the LCPA who, after January 1, 2012, shall provide  
42 the council with any staffing necessary in carrying out the business of the  
43 council or effectuating the provisions of this act. Prior to January 1, 2012,

, one member  
representing a law  
enforcement officer

1 the department of administration shall provide the council with any  
2 staffing necessary in carrying out the business of the council or  
3 effectuating the provisions of this act. The moneys used to reimburse these  
4 expenses shall be paid from the 911 state grant fund, pursuant to  
5 subsection (i).

6 (e) The 911 coordinating council is hereby authorized to adopt rules  
7 and regulations necessary to effectuate the provisions of this act, including,  
8 but not limited to, creating a uniform reporting form designating how  
9 moneys, including 911 fees, have been spent by the PSAPs, requiring  
10 service providers to notify the council pursuant to subsection (j), setting  
11 standards for coordinating and purchasing equipment, recommending  
12 standards for training of PSAP personnel and assessing civil penalties. The  
13 chair of the council shall work with the council to develop rules and  
14 regulations necessary for the distribution of moneys in the 911 federal  
15 grant fund. The council shall work with the chair to carry out the  
16 provisions of this act. Rules and regulations necessary to begin  
17 administration of this act shall be adopted by December 31, 2011.

18 (f) The council may, pursuant to rules and regulations, raise or lower  
19 the 911 fee upon a finding based on information submitted on the uniform  
20 reporting forms, that moneys generated by such fee are in excess of or  
21 below the costs required to operate PSAPs in the state. The council shall  
22 not set the 911 fee above \$.60.

23 (g) The council may appoint subcommittees as necessary to  
24 administer grants, oversee collection and distribution of moneys by the  
25 LCPA, develop technology standards, develop training recommendations  
26 and other issues as deemed necessary by the council. Subcommittees, if  
27 appointed, shall include members of the council and other persons as  
28 needed.

29 (h) The council may reimburse independent contractors or state  
30 agencies for expenses incurred in carrying out the business of the council,  
31 including salaries, that are directly attributable to effectuating the  
32 provisions of this act. The moneys used to reimburse these expenses shall  
33 be paid from the 911 state grant fund, pursuant to subsection (i).

34 (i) All expenses related to the council shall be paid from the 911 state  
35 grant fund. No more than 1.5% of the total receipts from providers and the  
36 department received by the LCPA shall be used to pay for such expenses.  
37 Members of the council may receive reimbursement for meals and travel  
38 expenses, but shall serve without other compensation with the exception of  
39 legislative members.

40 (j) Every provider shall submit contact information for the provider to  
41 the council prior to January 1, 2012. Any provider that has not previously  
42 provided wireless telecommunications service in this state shall submit  
43 contact information for the provider to the council within three months of

1 first offering wireless telecommunications services in this state.

2 (k) Each PSAP shall file with the council, by March 1, 2012, and  
3 every March 1 thereafter, a report demonstrating how such PSAP has spent  
4 the moneys earned from the 911 fee during the preceding calendar year.  
5 The council shall designate the content and form of such report.

6 (l) The council, upon a finding that a provider has violated any  
7 provision of this act, may impose a civil penalty. No civil penalty shall be  
8 imposed pursuant to this section except upon the written order of the  
9 council. Such order shall state the violation, the penalty to be imposed and  
10 the right of such person to appeal to a hearing before the council. Any such  
11 person may, within 15 days after service of the order, make a written  
12 request to the council for a hearing thereon. Hearings under this subsection  
13 shall be conducted in accordance with the provisions of the Kansas  
14 administrative procedure act.

15 (m) Any action of the council pursuant to subsection (l) is subject to  
16 review in accordance with the Kansas judicial review act.

17 (n) Any civil penalty recovered pursuant to this section shall be  
18 transferred to the LCPA for deposit in the 911 state grant fund.

19 (o) As long as the provider is working in good faith to comply with  
20 the provisions of this act, no civil penalty shall be imposed prior to  
21 January 1, 2013.

22 (p) The 911 coordinating council shall make an annual report, to  
23 include a detailed description of all expenditures made from 911 fees  
24 received by the PSAPs, to the house committee on energy and utilities and  
25 the senate committee on utilities.

26 Sec. 3. K.S.A. 2011 Supp. 12-5374 is hereby amended to read as  
27 follows: 12-5374. (a) Not later than 30 days after the receipt of moneys  
28 from providers pursuant to K.S.A. 2011 Supp. 12-5370 and 12-5371, and  
29 amendments thereto, and the department pursuant to K.S.A. 2011 Supp.  
30 12-5372, and amendments thereto, the LCPA shall distribute such moneys  
31 to PSAPs based upon the following distribution method: In a county with a  
32 population over 80,000, 82% of the money collected from service users  
33 whose place of primary use, as provided by the providers, is within the  
34 county shall be distributed to the PSAPs within the county based on place  
35 of primary use information; in a county with a population between 65,000  
36 and 79,999, 85% of the money collected from service users whose place of  
37 primary use, as provided by the providers, is within the county shall be  
38 distributed to the PSAPs within the county based on place of primary use  
39 information; in a county with a population between 55,000 and 64,999,  
40 88% of the money collected from service users whose place of primary  
41 use, as provided by the providers, is within the county shall be distributed  
42 to the PSAPs within the county based on place of primary use information;  
43 in a county with a population between 45,000 and 54,999, 91% of the

1 money collected from service users whose place of primary use, as  
2 provided by the providers, is within the county shall be distributed to the  
3 PSAPs within the county based on place of primary use information; in a  
4 county with a population between 35,000 and 44,999, 94% of the money  
5 collected from service users whose place of primary use, as provided by  
6 the providers, is within the county shall be distributed to the PSAPs within  
7 the county based on place of primary use information; in a county with a  
8 population between 25,000 and 34,999, 97% of the money collected from  
9 service users whose place of primary use, as provided by the providers, is  
10 within the county shall be distributed to the PSAPs within the county  
11 based on place of primary use information; and in a county with a  
12 population of less than 25,000, 100% of the money collected from service  
13 users whose place of primary use, as provided by the providers, is within  
14 the county shall be distributed to the PSAPs within the county based on  
15 place of primary use information. There shall be a minimum county  
16 distribution of \$50,000 and no county shall receive less than \$50,000 of  
17 direct distribution moneys. If there is more than one PSAP in a county then  
18 the direct distribution allocated to that county by population shall be  
19 deducted from the minimum county distribution and the difference shall be  
20 proportionately divided between the PSAPs in the county. All moneys  
21 remaining after distribution and any moneys which cannot be attributed to  
22 a specific PSAP shall be transferred to the 911 state grant fund.

23 (b) All fees remitted to the LCPA shall be deposited in the 911 state  
24 fund and for the purposes of this act be treated as if they are public funds,  
25 pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and  
26 amendments thereto.

27 (c) All moneys in the 911 state fund that have been collected from the  
28 prepaid wireless 911 fee shall be deposited in the 911 state grant fund  
29 unless \$2 million of such moneys have been deposited in any given year  
30 then all remaining moneys shall be distributed to the PSAPs pursuant to  
31 subsection (a) counties in an amount proportional to each county's  
32 population as a percentage share of the population of the state. ←

33 (d) The LCPA shall keep accurate accounts of all receipts and  
34 disbursements of moneys from the 911 fees.

35 (e) Information provided by providers to the local collection point  
36 administrator or to the 911 coordinating council pursuant to this act will be  
37 treated as proprietary records which will be withheld from the public upon  
38 request of the party submitting such records.

39 (f) The provisions of subsection (e) shall expire on July 1, 2017,  
40 unless the legislature acts to reenact such provision. The provisions of  
41 subsection (e) shall be reviewed by the legislature prior to July 1, 2016.

42 (g) This section shall take effect on and after January 1, 2012.

43 Sec. 4. K.S.A. 2011 Supp. 12-5363, 12-5364 and 12-5374 are hereby

For each PSAP within a county, such moneys shall be distributed to each PSAP in an amount proportional to the PSAP's population as a percentage share of the population of the county. If there is no PSAP within a county, then such moneys shall be distributed to the PSAP providing service to such county. Such moneys distributed to counties and PSAPs only shall be used for the uses authorized in K.S.A. 2011 Supp. 12-5375, and amendments thereto.

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- 1 repealed.
- 2     Sec. 5. This act shall take effect and be in force from and after its
- 3 publication in the statute book.