

1 **[As Amended by House Committee of the Whole]**

2  
3 **As Amended by House Committee**

4 *Session of 2001*

5  
6 **HOUSE BILL No. 2034**

7  
8 By Committee on Utilities

9  
10 1-11

11  
12 AN ACT concerning emergency telephone systems; relating to **exten-**  
13 **sion of such systems to include wireless service and cable te-**  
14 **lephony service; providing for** financing thereof; **establishing a**  
15 **wireless enhanced 9-1-1 advisory board;** amending K.S.A. 12-5303  
16 and K.S.A. 2000 Supp. 12-5301, 12-5302, 12-5304 and 12-5308 and  
17 repealing the existing sections.

18  
19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. K.S.A. 2000 Supp. 12-5301 is hereby amended to read as  
21 follows: 12-5301. As used in this act, unless the context otherwise  
22 requires:

23 (a) “~~Emergency 9-1-1~~ telephone service” means a telephone system  
24 utilizing a *the* single three-digit number “9-1-1” for reporting police, fire,  
25 medical or other emergency situations;.

26 (b) “Emergency telephone tax” means a tax to finance the operation  
27 of *an* emergency telephone ~~service; system~~.

28 (c) “~~Exchange access~~ **Access** facilities” means all facilities provided  
29 by the service supplier for the facility which provides local telephone  
30 exchange access **or cable telephony access** to a service user;.

31 (d) “Tariff rate” means the rate or rates billed by a **an exchange**  
32 **telephone** service supplier and as stated in the service supplier’s tariffs,  
33 approved by the state corporation commission which represent the serv-  
34 ice supplier’s recurring charges for exchange access facilities or their  
35 equivalent, exclusive of all taxes, fees, licenses or similar charges what-  
36 soever;.

37 (e) “Public agency” means any city, county, municipal corporation,  
38 public district or public authority located in whole or in part within this  
39 state which provides or has authority to provide fire fighting, law enforce-  
40 ment, ambulance, emergency medical or other emergency services;.

41 (f) “Governing body” means the board of county commissioners of a  
42 county or the governing body of a city;.

43 (g) “Person” means any individual, firm, partnership, copartnership,

1 joint venture, association, cooperative organization, corporation, municipi-  
2 pal or private, and whether organized for profit or not, state, county,  
3 political subdivision, state department, commission, board, bureau or fra-  
4 ternal organization, nonprofit organization, estate, trust, business or com-  
5 mon law trust, receiver, assignee for the benefit of creditors, trustee or  
6 trustee in bankruptcy or any other service user;

7 (h) “Service supplier” means any person providing exchange tele-  
8 phone ~~services~~ **service, cable telephony service** or wireless service to  
9 any service user in this state;

10 (i) “Service user” means any person who is provided exchange tele-  
11 phone service ~~or wireless, cable telephony service or wireless service~~  
12 in this state;

13 (j) “Wireless carrier” means any common, private or other radio car-  
14 rier licensed by the federal communications commission to provide two-  
15 way voice or text radio service in this state which provides interconnection  
16 to the public switched telephone network and access to a 24-hour an-  
17 swering point;

18 (k) “Wireless service” means a two-way voice or text radio service  
19 provided by a wireless carrier; ~~and.~~

20 (l) “PSAP” means public safety answering point.

21 (m) *“Emergency telephone system” means 9-1-1 telephone service*  
22 *and the system for processing reports made by use of such service and for*  
23 *dispatching responders in response to such reports.*

24 (n) ~~“Place of primary use” has the meaning provided by and shall be~~  
25 ~~determined in accordance with the federal mobile telecommunications~~  
26 ~~sourcing act (P.L. 106-252).~~

27 Sec. 2. K.S.A. 2000 Supp. 12-5302 is hereby amended to read as  
28 follows: 12-5302. (a) In addition to other powers for the protection of the  
29 public health and welfare, a governing body may provide for the operation  
30 of an emergency telephone service ~~and may pay for it by imposing an~~  
31 ~~emergency telephone tax for such service in those portions of the gov-~~  
32 ~~erning body’s jurisdiction for which emergency telephone service has~~  
33 ~~been contracted. The governing body system and~~ may do such other acts  
34 as are expedient for the protection and preservation of the public health  
35 and welfare and are necessary for the operation of the emergency tele-  
36 phone system. *To pay for the system*, the governing body is hereby au-  
37 thorized by ordinance in the case of cities and by resolution in the case  
38 of counties to impose ~~such an emergency telephone~~ tax in those portions  
39 of the governing body’s jurisdiction for which ~~emergency 9-1-1~~ telephone  
40 service has been contracted. ~~The tax may be imposed either on only~~  
41 ~~exchange telephone service or on both exchange telephone service and~~  
42 ~~wireless service.~~ The amount of such tax shall not exceed \$.75 per month  
43 per exchange access line or its equivalent *for exchange telephone service,*

1 **\$.75 per month per cable telephony access line or its equivalent**  
2 **for cable telephony service or \$.75 per month per wireless connection**  
3 **for wireless service.**

4 (b) Within 60 days of the publication of a resolution by a county  
5 adopted pursuant to subsection (a) there may be filed with the county  
6 election officer of the county a petition signed by not less than 5% of the  
7 registered voters of the county, and within 60 days of publication of an  
8 ordinance adopted pursuant to subsection (a) there may be filed with the  
9 county election officer of the county in which the city is located a petition  
10 signed by not less than 5% of the registered voters of the city, in either  
11 such case requesting that the question of the installation and operation  
12 of *an* emergency telephone ~~service system~~ and imposition of tax therefor  
13 be submitted to the qualified voters of the county. Upon determination  
14 of the sufficiency of such petition and certification thereof by the county  
15 election officer, the proposition shall be submitted to the qualified voters  
16 of the county or city as the case may be at the next primary or general  
17 election of county officers following by not less than 60 days the certifi-  
18 cation of such petition. If a majority of the votes cast at such election are  
19 for the installation and operation of *an* emergency telephone ~~service sys-~~  
20 ~~tem~~ and imposition of tax therefor, or if no protest petition is filed within  
21 the time hereinbefore prescribed, the governing body may provide for  
22 the installation and operation of such ~~service system~~ and impose such tax.  
23 If a tax is imposed on the effective date of this act or thereafter, any  
24 proposed increase in the amount of the tax ~~or imposition of the tax on~~  
25 ~~wireless service~~ shall be subject to the protest petition provided in this  
26 subsection. **The extension of the tax to cable telephony service or**  
27 **wireless service shall not be subject to such protest petition.** The  
28 proceeds of the tax shall be utilized to pay for the operation of *the* emer-  
29 gency telephone ~~service system~~ as set forth in subsection (b) of K.S.A.  
30 12-5304, and amendments thereto, and may be imposed at any time sub-  
31 sequent to execution of a contract with the provider of ~~such 9-1-1 tele-~~  
32 ~~phone~~ service at the discretion of the governing body. The collection of  
33 such tax may begin at the time determined to be necessary to generate  
34 revenue in an amount necessary to pay the nonrecurring expenses of  
35 establishing the emergency telephone ~~service system~~. Any interest earned  
36 on revenue derived from such tax shall be used to pay the expenses au-  
37 thorized by K.S.A. 12-5304, and amendments thereto. Such tax shall not  
38 be imposed until after the expiration of the protest period or until after  
39 approved at an election if a sufficient protest petition is filed.

40 (c) As an alternative to the procedure provided in subsection (b), the  
41 governing body may submit, on its own initiative, the proposal to establish  
42 an emergency telephone ~~service system~~ to the qualified voters of the city  
43 or county for approval. Any such election shall be called and held in the

1 manner provided by the general bond law.

2 (d) ~~Such tax~~(1) *The emergency telephone tax on exchange telephone*  
3 *service and cable telephony service* shall be imposed only upon  
4 exchange access lines **or cable telephony access lines**, or their equiv-  
5 alent. No such tax shall be imposed upon more than 100 exchange access  
6 facilities or their equivalent per person per location.

7 (2) *The emergency telephone tax on wireless service shall be imposed*  
8 *only upon wireless connections for which the ~~place of primary use cus-~~*  
9 **tomer's billing address** *is within the portions of the governing body's*  
10 *jurisdiction for which 9-1-1 telephone service has been contracted.*

11 (e) Every billed service user shall be liable for any tax imposed under  
12 this act until it has been paid to the service supplier. ~~Wireless service~~  
13 ~~users shall be exempt from the emergency telephone tax.~~

14 (f) The duty to collect any tax imposed under authority of this act  
15 from a service user shall commence at such time as specified by the  
16 governing body. Taxes imposed under authority of this act and required  
17 by it to be collected by the service supplier shall be added to and may be  
18 stated separately in the billings to the service user.

19 (g) The service supplier shall have no obligation to take any legal  
20 action to enforce the collection of any tax imposed under authority of this  
21 act. The service supplier shall provide annually the governing body with  
22 a list of amounts uncollected along with the names and addresses of those  
23 service users which carry a balance that can be determined by the service  
24 supplier to be nonpayment of any tax imposed under authority of this act.

25 (h) Any tax imposed under authority of this act shall be collected  
26 insofar as practicable at the same time as, and along with, the charges for  
27 the tariff ~~rate~~ *or other rates of the service supplier* in accordance with the  
28 regular billing practice of the service supplier.

29 (i) **No tax shall be imposed pursuant to this section on a wire-**  
30 **less connection used for remote control purposes and capable of**  
31 **accessing only one number.**

32 Sec. 3. K.S.A. 12-5303 is hereby amended to read as follows: 12-  
33 5303. (a) Any tax imposed under authority of this act and the amounts  
34 required to be collected are due quarterly. The amount of tax collected  
35 in one calendar quarter by the service supplier shall be remitted to the  
36 governing body no later than ~~sixty~~ 60 days after the close of a calendar  
37 quarter. On or before the sixtieth day of each calendar quarter following,  
38 a return for the preceding quarter shall be filed with the governing body  
39 in such form as the governing body and service supplier shall agree. The  
40 service supplier required to file the return shall deliver the return to-  
41 gether with a remittance of the amount of the tax payable to the office  
42 of the governing body. The service supplier shall maintain records of the  
43 amount of any tax collected pursuant to action in accord with this act.

1 Such records shall be maintained for a period of one year from the time  
2 the tax is collected.

3 (b) From every remittance to the governing body made on or before  
4 the date when the same becomes due, the service supplier required to  
5 remit the same shall be entitled to deduct and retain, as an administrative  
6 fee, an amount equal to ~~two percent (2%)~~ 2% thereof. ~~Other costs in-~~  
7 ~~curring by the service supplier may be recovered in accordance with:~~  
8 ~~(1) Amounts included in the tariff rate of the supplier, in the case of~~  
9 ~~exchange telephone service suppliers; and (2) amounts negotiated be-~~  
10 ~~tween the service supplier and the governing body, in the case of wireless~~  
11 ~~service suppliers. Other costs which are incurred by a service sup-~~  
12 ~~plier and are not recovered through tariff rates or customer~~  
13 ~~charges of the supplier may, at the discretion of the governing~~  
14 ~~body, be recovered, subject to negotiation with the governing~~  
15 ~~body, but any recovery of such other costs shall be made equally~~  
16 ~~available to exchange telephone service suppliers, cable telephony~~  
17 ~~service suppliers and wireless service suppliers.~~

18 (c) At least once each calendar year, the governing body shall estab-  
19 lish a tax rate, not to exceed the amount authorized, that together with  
20 any surplus revenues carried forward will produce sufficient revenues to  
21 fund the expenditures authorized by this act. Amounts collected in excess  
22 of that necessary within a given year shall be carried forward to subse-  
23 quent years. The governing body shall make its determination of such tax  
24 rate each year no later than September 1 and shall fix the new rate to  
25 take effect commencing with the first billing period of each customer on  
26 or following the next January 1. Immediately upon making its determi-  
27 nation and fixing the rate, the governing body shall publish in its minutes  
28 the new rate, and it shall notify by registered mail every service supplier  
29 at least ~~ninety (90)~~ 90 days before such new rate will become effective.  
30 The governing body may at its own expense require an annual audit of  
31 the service supplier's books and records concerning the collection and  
32 remittance of the tax authorized by this act.

33 (d) *Nothing in this act shall be construed to prevent a service supplier*  
34 *from contracting with another entity to carry out the service supplier's*  
35 *duties under this act with regard to collection and remittance of any tax*  
36 *imposed pursuant to this act.*

37 (e) *Notwithstanding any other provision of law, no proprietary in-*  
38 *formation submitted to a public agency by a ~~wireless-carrier~~ service*  
39 *supplier pursuant to this section shall be subject to subpoena or otherwise*  
40 *released to any person other than to the submitting ~~wireless-carrier~~ serv-*  
41 *ice supplier, without the express permission of the ~~wireless-service-car-~~*  
42 *rier service supplier. General information collected from ~~wireless-car-~~*  
43 *riers service suppliers pursuant to this section shall only be released or*

1 *published in aggregate amounts which do not identify or allow identifi-*  
2 *cation of numbers of subscribers or revenues attributable to a specific*  
3 ~~*wireless-carrier*~~ **service supplier.**

4 Sec. 4. K.S.A. 2000 Supp. 12-5304 is hereby amended to read as  
5 follows: 12-5304. (a) Any governing body imposing the tax authorized by  
6 K.S.A. 12-5302, and amendments thereto, may contract directly with the  
7 provider of ~~the emergency 9-1-1~~ telephone service or may contract and  
8 cooperate with any public agency or with other states or their political  
9 subdivisions or with any association or corporation for their political sub-  
10 divisions or with any association or corporation for the administration of  
11 *the emergency telephone service system* as provided by law.

12 (b) Funds collected from tax imposed pursuant to K.S.A. 12-5302,  
13 and amendments thereto, shall be spent solely to pay for any or all of the  
14 following: (1) The monthly recurring charges billed by the service supplier  
15 for ~~the emergency 9-1-1~~ telephone service; (2) initial installation, service  
16 establishment; **and** nonrecurring start-up charges billed by the service  
17 supplier for ~~the emergency 9-1-1~~ telephone service; (3) charges for capital  
18 improvements and equipment or other physical enhancements to the  
19 emergency telephone system; ~~or~~ (4) the acquisition and installation of  
20 road signs designed to aid in the delivery of emergency service.; ~~(5) en-~~  
21 ~~gineering, architectural and construction costs attributable to the emer-~~  
22 ~~gency telephone system; or (6);~~ **or (5) costs of training PSAP personnel**  
23 **to provide effective service to all users of the emergency telephone system,**  
24 **including users who have communications disabilities.**

25 ~~(c) A governing body that imposes an emergency telephone tax on~~  
26 ~~both exchange telephone service and wireless service may expend the tax~~  
27 ~~revenue on the emergency telephone system without regard to whether~~  
28 ~~the source of the revenue is the tax on exchange telephone service or~~  
29 ~~wireless service.~~

30 **(c) A governing body shall maintain a separate accounting of**  
31 **emergency telephone tax revenues and expenditures based on**  
32 **whether they are attributable to telephone exchange service, cable**  
33 **telephony service or wireless service but the governing body may**  
34 **expend such revenues without regard to whether they are attrib-**  
35 **utable to telephone exchange service, cable telephony service or**  
36 **wireless service.**

37 **(d) A governing body that imposes an emergency telephone tax**  
38 **on wireless service shall implement phase 1 of wireless enhanced**  
39 **911 service, as defined by the federal communications commission**  
40 **on the effective date of this act; (1) Within 60 months after the**  
41 **date such tax is first imposed, if the governing body is the county**  
42 **commission of a county having a population of less than 75,000 or**  
43 **if the governing body is the governing body of a city located in**

1 **such a county; or (2)] within 24 months after the date such tax is**  
2 **first imposed [if the governing body is the county commission of a**  
3 **county having a population of 75,000 or more or if the governing**  
4 **body is the governing body of a city located in such a county]. If**  
5 **such service is not implemented within that time, imposition of the**  
6 **emergency telephone tax on wireless service shall be suspended**  
7 **until such time as phase 1 of wireless enhanced 911 service is**  
8 **implemented.**

9 Sec. 5. K.S.A. 2000 Supp. 12-5308 is hereby amended to read as  
10 follows: 12-5308. *(a) A public agency or a wireless carrier shall not* **No**  
11 **public agency or service supplier shall** be liable for any form of dam-  
12 ages resulting directly or indirectly from the total or partial failure of any  
13 transmission to an emergency telephone service.

14 *(b) Notwithstanding any other provision of law, in no event shall any*  
15 *wireless carrier, or its officers, employees, assigns or agents, be liable for*  
16 *any form of civil damages or criminal liability which directly or indirectly*  
17 *results from, or is caused by, an act or omission in the development,*  
18 *design, installation, operation, maintenance, performance or provision of*  
19 *9-1-1 telephone service or other emergency wireless two and three digit*  
20 *wireless numbers, unless such act or omission constitutes gross negligence,*  
21 *recklessness or intentional misconduct. Nor shall any wireless carrier* **No**  
22 **service supplier, or its officers, employees, assigns, or agents, be liable**  
23 **for any form of civil damages or criminal liability or agents, shall be**  
24 **liable for any form of damages which directly or indirectly results**  
25 **result from, or is are caused by, the release of subscriber information to**  
26 **any public agency as required to implement the provisions of this act**  
27 **unless the release constitutes gross negligence, recklessness or intentional**  
28 **misconduct.**

29 **(c) Each service supplier shall design, maintain and operate**  
30 **the supplier's facilities so as to maximize direct delivery of each 9-**  
31 **1-1 call to the PSAP of the jurisdiction in which the 9-1-1 call is**  
32 **placed.**

33 **New Sec. 6. (a) There is hereby established a wireless en-**  
34 **hanced 9-1-1 advisory board.**

35 **(b) The board shall consist of:**

36 **(1) Six members, one each designated by the following: The**  
37 **Kansas association of counties, the league of Kansas municipalities,**  
38 **the Kansas highway patrol, the Kansas association of fire chiefs,**  
39 **the Kansas association of chiefs of police and the Kansas emer-**  
40 **gency medical services board;**

41 **(2) one person with a communications disability designated by**  
42 **the Kansas commission for the deaf and hard of hearing; and**

43 **(3) three members appointed by the governor to represent the**

1 **general public;**

2 **(4) four members appointed by the governor, one each to rep-**  
3 **resent the following: Large wireline telephone companies, rural**  
4 **independent telephone companies, cable telephony companies**  
5 **and wireless service providers.**

6 **(c) The board shall elect annually one member to serve as**  
7 **chairperson and one member to serve as vice-chairperson.**

8 **The board shall meet at least once in each calendar quarter and**  
9 **at such other times as may be necessary upon call of the chairper-**  
10 **son or upon written request of a majority of the members of the**  
11 **board.**

12 **(d) The board shall assist and advise local governments and**  
13 **PSAP operators in the implementation and operation of wireless**  
14 **enhanced 9-1-1 services, including, but not limited to, policy, train-**  
15 **ing and education.**

16 **Sec. ~~6~~ 7.** K.S.A. 12-5303 and K.S.A. 2000 Supp. 12-5301, 12-5302,  
17 12-5304 and 12-5308 are hereby repealed.

18 **Sec. ~~7~~ 8.** This act shall take effect and be in force from and after its  
19 publication in the statute book.

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