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[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2004

**HOUSE Substitute for Substitute for
SENATE BILL No. 153**

By Committee on Utilities

1-22

AN ACT concerning emergency telephone service; enacting the wireless enhanced 911 act; imposing certain fees ~~and taxes~~; providing for certain grants; ~~amending K.S.A. 12-5302 and K.S.A. 2003 Supp. 10-101a and repealing the existing sections.~~

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

New Section 1. Sections 1 through 18, and amendments thereto, may be cited as the wireless enhanced 911 act.

New Sec. 2. As used in the wireless enhanced 911 act, unless the context otherwise requires:

(a) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which a charge was deducted from the customer's card or balance.

(b) "Advisory board" means the wireless enhanced 911 advisory board established under section 6, and amendments thereto.

(c) "Automatic number identification" means a feature by which a person calling a public safety answering point has such person's 10-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer.

(d) "Eligible municipality" means: (1) Any county having a population of less than 75,000 or any city located within such a county; or (2) any two or more such counties or cities.

(e) "Emergency telephone service" means a telephone system utilizing a single three digit number "911" for reporting police, fire, medical or other emergency situations.

~~(f) "Emergency telephone tax" means a tax to finance the operation of emergency telephone service.~~

~~(g)~~ (f) "Enhanced 911 service" means an emergency telephone serv-

- 1 ice that generally may provide, but is not limited to, selective routing,
2 automatic number identification and automatic location identification
3 features.
- 4 ~~(h)~~ **(g)** “Exchange access facilities” means all facilities provided by
5 the service supplier for the facility which provides local telephone
6 exchange access to a service user.
- 7 ~~(i)~~ **(h)** “Fund” means the wireless enhanced 911 grant fund estab-
8 lished by this act.
- 9 ~~(j)~~ **(i)** “Governing body” means the board of county commissioners
10 of a county or the governing body of a city.
- 11 ~~(k)~~ **(j)** “Local collection point administrator” means the statewide as-
12 sociation of cities as established by K.S.A. 12-1610e, and amendments
13 thereto, and the statewide association of counties as established by K.S.A.
14 19-2690, and amendments thereto.
- 15 ~~(l)~~ **(k)** “Mobile telephone number” means the telephone number as-
16 signed to a wireless telephone at the time of initial activation.
- 17 ~~(m)~~ **(l)** “Person” means any individual, firm, partnership, copartner-
18 ship, joint venture, association, cooperative organization, corporation,
19 municipal or private, and whether organized for profit or not, state,
20 county, political subdivision, state department, commission, board, bu-
21 reau or fraternal organization, nonprofit organization, estate, trust, busi-
22 ness or common law trust, receiver, assignee for the benefit of creditors,
23 trustee or trustee in bankruptcy or any other legal entity.
- 24 ~~(n)~~ **(m)** “Prepaid wireless telephone service” means wireless tele-
25 phone service that is activated in advance by payment for a finite dollar
26 amount of service or for a finite set of minutes that terminate either upon
27 use by a customer and delivery by the wireless provider of an agreed-
28 upon amount of service corresponding to the total dollar amount paid in
29 advance or within a certain period of time following the initial purchase
30 or activation, unless additional payments are made.
- 31 ~~(o)~~ **(n)** “Primary place of use” has the meaning provided in the mobile
32 telecommunications act (4 U.S.C. 116, *et seq.*, as in effect on the effective
33 date of this act).
- 34 ~~(p)~~ **(o)** “Project” means the development and acquisition of the nec-
35 essary improvements in order to facilitate the establishment of wireless
36 enhanced 911 service.
- 37 ~~(q)~~ **(p)** “Project costs” means all costs or expenses which are neces-
38 sary or incident to a project and which are directly attributable thereto.
- 39 ~~(r)~~ **(q)** “PSAP” means public safety answering point.
- 40 ~~(s)~~ **(r)** “Pseudo-automatic number identification” means a feature by
41 which automatic number identification is provided to a public safety an-
42 swering point of the 10-digit telephone number of the specific cell site
43 or cell site sector from which a wireless call originated.

- 1 ~~(s)~~ (s) “Public agency” means any city, county, municipal corporation,
2 public district or public authority located in whole or in part within this
3 state which provides or has authority to provide fire fighting, law enforce-
4 ment, ambulance, emergency medical or other emergency services.
- 5 ~~(t)~~ (t) “Secretary” means the secretary of administration.
- 6 ~~(u)~~ (u) “Service supplier” means any person providing exchange tel-
7 phone service to any service user in this state.
- 8 ~~(v)~~ (v) “Service user” means any person who is provided exchange
9 telephone service or wireless service in this state.
- 10 ~~(w)~~ (w) “Subscriber account” means the 10-digit access number as-
11 signed to a wireless service customer regardless of whether more than
12 one such number is aggregated for the purpose of billing a service user.
- 13 ~~(x)~~ (x) “Sufficient positive balance” means a dollar amount greater
14 than or equal to the total monthly wireless enhanced 911 **grant** fee and
15 wireless enhanced 911 ~~tax~~ **local fee**.
- 16 ~~(y)~~ (y) “Tariff rate” means the rate or rates billed by a service supplier
17 and as stated in the service supplier’s tariffs, approved by the state cor-
18 poration commission which represent the service supplier’s recurring
19 charges for exchange access facilities or their equivalent, exclusive of all
20 taxes, fees, licenses or similar charges whatsoever.
- 21 ~~(z)~~ (z) “Valid request” means a request to a wireless carrier for wire-
22 less enhanced 911 service, made by a PSAP which is capable of receiving
23 and utilizing the data elements associated with wireless enhanced 911
24 service as determined in accordance with 47 CFR 20.18 (October 1,
25 2002).
- 26 ~~(aa)~~ (aa) “Wireless automatic location identification information”
27 means a feature by which information is provided to a public safety an-
28 swering point identifying the location of a 911 caller within the parame-
29 ters established by the federal communications commission.
- 30 ~~(bb)~~ (bb) “Wireless carrier” means any common, private or other ra-
31 dio carrier licensed by the federal communications commission to provide
32 two-way voice service in this state which provides interconnection to the
33 public switched telephone network and access to a 24-hour answering
34 point.
- 35 ~~(cc)~~ (cc) “Wireless enhanced 911 **grant** fee” means the fee imposed
36 under section 4, and amendments thereto.
- 37 ~~(dd)~~ (dd) **“Wireless enhanced 911 local fee” means the fee imposed**
38 **under section 10, and amendments thereto.**
- 39 ~~(ee)~~ (ee) “Wireless enhanced 911 service” means a communication serv-
40 ice by which wireless carriers can provide automatic number identifica-
41 tion, pseudo-automatic number identification and wireless automatic lo-
42 cation identification information to a requesting PSAP, as defined in FCC
43 docket 94-102, which is capable of receiving and utilizing the data ele-

- 1 ments associated with wireless enhanced 911 service.
- 2 ~~(ff) “Wireless enhanced 911 tax” means the tax imposed under sec-~~
3 ~~tion 10, and amendments thereto, to finance the operation of wireless~~
4 ~~enhanced emergency telephone service.~~
- 5 ~~(gg)~~ (ff) “Wireless service” means a two-way voice service provided
6 by a wireless carrier.
- 7 New Sec. 3. (a) There is hereby established in the state treasury the
8 wireless enhanced 911 grant fund.
- 9 (b) Moneys from the following sources shall be credited to the fund:
- 10 (1) Amounts received by the state from the federal government for
11 the purposes of the fund;
- 12 (2) amounts appropriated or otherwise made available by the legis-
13 lature for the purposes of the fund;
- 14 (3) amounts received under section 4, 8 or 10, and amendments
15 thereto;
- 16 (4) interest attributable to investment of moneys in the fund; and
- 17 (5) amounts received from any public or private entity for the pur-
18 poses of the fund.
- 19 (c) Subject to the conditions and in accordance with requirements of
20 this act, moneys credited to the fund shall be used only:
- 21 (1) To pay costs of administering the fund, including actual and nec-
22 essary expenses incurred by members of the advisory board while per-
23 forming duties required by the wireless enhanced 911 act and costs of
24 any audit performed under section 11 [or 12], and amendments thereto,
25 but the aggregate amount of all such costs shall not exceed 5% of the
26 moneys credited to the fund; and
- 27 (2) grants to eligible municipalities for the following costs: (A) Nec-
28 essary and reasonable costs incurred or to be incurred by PSAP’s to im-
29 plement wireless enhanced 911 service; (B) costs of purchasing equip-
30 ment and upgrades and modification to equipment used solely to process
31 the data elements of wireless enhanced 911 service; and (C) costs of
32 maintenance and license fees for such equipment and training of person-
33 nel to operate such equipment, including costs of training PSAP person-
34 nel to provide effective service to all users of the emergency telephone
35 system who have communications disabilities. Such costs shall not in-
36 clude[: (A) **Expenditures necessary to provide wireless automatic**
37 **location identification information unless the municipality has**
38 **taken competitive bids for provision of such information and such**
39 **expenditures are less than the bid of the lowest responsible bidder;**
40 **or (B)]** expenditures for new or expanded buildings or similar facilities
41 or to construct other capital improvements not expressly authorized by
42 this act.
- 43 (d) On or before the 10th of each month, the director of accounts

1 and reports shall transfer from the state general fund to the fund interest
2 earnings based on:

3 (1) The average daily balance of moneys in the wireless enhanced
4 911 grant fund for the preceding month; and

5 (2) the net earnings rate of the pooled money investment portfolio
6 for the preceding month.

7 (e) All payments and disbursements from the fund shall be made in
8 accordance with appropriation acts upon warrants of the director of ac-
9 counts and reports issued pursuant to vouchers approved by the secretary
10 or by a person or persons designated by the secretary.

11 New Sec. 4. (a) Subject to the provisions of section 18, and amend-
12 ments thereto, effective July 1, 2004, there is hereby established a wireless
13 enhanced 911 **grant** fee in the amount of \$.25 per month per wireless
14 subscriber account with primary place of use in the state of Kansas.

15 (b) It shall be the duty of each wireless carrier to collect such fee
16 from the wireless service user and remit such fee to the secretary as
17 provided by section 11, and amendments thereto.

18 (c) The secretary shall remit to the state treasurer, in accordance with
19 the provisions of K.S.A. 75-4215, and amendments thereto, any fees re-
20 ceived pursuant to this section. Upon receipt of the remittance, the state
21 treasurer shall deposit the entire amount in the state treasury and credit
22 it to the wireless enhanced 911 grant fund.

23 New Sec. 5. The secretary shall administer the provisions of the wire-
24 less enhanced 911 act and shall be responsible for administration and
25 management of the fund. The secretary is hereby authorized to:

26 (a) Enter into binding commitments for the provision of grants in
27 accordance with the provisions of this act;

28 (b) review applications of eligible municipalities for grants and select
29 the projects for which grants will be made available; and

30 (c) adopt rules and regulations necessary for effectuation of the pro-
31 visions of this act.

32 New Sec. 6. (a) There is hereby established the wireless enhanced
33 911 advisory board. Members of the advisory board shall be individuals
34 familiar with development and implementation of wireless enhanced 911
35 service and shall be appointed by the governor as follows:

36 (1) One individual representing the Kansas association of counties;

37 (2) one individual representing the league of Kansas municipalities;

38 (3) one individual representing local law enforcement;

39 (4) one individual representing local fire/emergency medical services;

40 (5) one individual representing PSAP's in counties having a popula-
41 tion of less than 15,000;

42 (6) one individual representing PSAP's in counties having a popula-
43 tion of 15,000 or more;

- 1 (7) one individual representing the wireless carriers industry;
- 2 (8) one individual representing local exchange service providers; and
- 3 (9) one individual representing the Kansas highway patrol.
- 4 (b) The appointments in subsection (a)(1) through (a)(6) of this sec-
- 5 tion shall satisfy the following:
- 6 (1) Two shall be individuals from counties having a population of
- 7 more than 75,000;
- 8 (2) two shall be individuals from counties having a population from
- 9 15,000 up to 75,000; and
- 10 (3) two shall be individuals from counties having a population of less
- 11 than 15,000.
- 12 New Sec. 7. After providing for public comment and review each
- 13 year, the secretary, in conjunction with the advisory board, shall prepare
- 14 a plan identifying the intended uses of the moneys available in the fund.
- 15 The intended use plan shall include, but not be limited to:
- 16 (a) The wireless enhanced 911 project priority list;
- 17 (b) a description of the short-term and long-term goals and objectives
- 18 of the fund for the deployment of wireless enhanced 911;
- 19 (c) information on the projects to be financed, including a description
- 20 thereof, the terms of grants to be provided and the municipalities receiv-
- 21 ing the grants; and
- 22 (d) the criteria and method established for the provision of grants to
- 23 be made from the fund.
- 24 New Sec. 8. (a) Eligible municipalities wishing to receive a grant
- 25 under the wireless enhanced 911 act shall submit an application therefor
- 26 to the secretary. Applications shall be in such form and shall include such
- 27 information as the secretary shall require including, but not limited to,
- 28 the request for proposals submitted to initiate the deployment process,
- 29 and shall be submitted in a manner and at a time to be determined by
- 30 the secretary.
- 31 (b) The secretary may enter into agreements with any eligible mu-
- 32 nicipality for the provision of a grant thereto for payment of all or a part
- 33 of project costs and any eligible municipality may enter into such an
- 34 agreement and may accept such grant when so authorized by the munic-
- 35 ipal governing body. The purposes of the grant to be provided, a time
- 36 frame for implementation, and the amount thereof, which may vary
- 37 among municipalities, shall be included in the agreements. All such agree-
- 38 ments shall include provisions for repayment of the grant if implemen-
- 39 tation is not completed in accordance with the terms of the agreement.
- 40 (c) If a municipality to which a grant is made available under the
- 41 wireless enhanced 911 act fails to enter into an agreement with the sec-
- 42 retary for the provision of such grant in accordance with the requirements
- 43 of this act, the secretary may make the amount of the grant available for

1 one or more other projects on the priority list.

2 (d) The secretary shall provide any eligible municipality, upon re-
3 quest, with technical advice and assistance regarding a project or an ap-
4 plication for a grant for the payment of all or part of project costs.

5 (e) (1) Subject to the provisions of subsection (e)(3), each PSAP shall
6 submit to wireless carriers a valid request for wireless enhanced 911 serv-
7 ice by July 1, 2006.

8 (2) Subject to the provisions of subsection (e)(3), if a PSAP has not
9 submitted to wireless carriers a valid request for wireless enhanced 911
10 service by July 1, 2006, such PSAP shall pay to the secretary all moneys
11 paid from the fund to such PSAP. The secretary shall remit such moneys
12 to the state treasurer in accordance with K.S.A. 75-4215, and amend-
13 ments thereto. Upon receipt of the remittance, the state treasurer shall
14 deposit the entire amount in the state treasury and credit it to the wireless
15 enhanced 911 grant fund. Thereafter, such PSAP shall not be eligible to
16 receive moneys from the fund until the PSAP has submitted to the sec-
17 retary evidence satisfactory to the secretary that the PSAP has submitted
18 to wireless carriers a valid request for wireless enhanced 911 service.

19 (3) If a PSAP is unable to make a valid request by July 1, 2006, the
20 advisory board may approve extension of such date to not later than July
21 1, 2007, if the advisory board determines that: (A) Equipment necessary
22 to receive and utilize the data elements associated with the wireless en-
23 hanced 911 service has been ordered by the PSAP but is unavailable; or
24 (B) there is other just cause to extend the date.

25 New Sec. 9. The secretary shall prepare an annual report describing
26 how the state has met the goals and objectives for the previous year as
27 identified in the intended use plan prepared under section 7, and amend-
28 ments thereto. Such report shall include information concerning the pro-
29 gress toward implementation of federal phase II enhanced 911 require-
30 ments pursuant to 47 C.F.R. 20.18. The secretary shall provide such
31 report to the governor and the legislature.

32 New Sec. 10. (a) Effective July 1, 2004, there is hereby imposed a
33 wireless enhanced 911 ~~tax~~ **local fee**. Subject to the provisions of section
34 18, and amendments thereto, the amount of such ~~tax~~ **fee** shall be \$.25
35 per month per wireless subscriber account with primary place of use in
36 the state of Kansas.

37 (b) The proceeds of the wireless enhanced 911 ~~tax~~ **local fee**, and any
38 interest earned on revenue derived from such ~~tax~~ **fee**, shall be used to
39 pay for costs of emergency telephone service described in subsection (b)
40 of K.S.A. 12-5304, and amendments thereto. In addition to allowable
41 expenditures under K.S.A. 12-5304, and amendments thereto, the pro-
42 ceeds of such ~~tax~~ **fee** shall be used to pay costs of implementation of
43 wireless enhanced 911 service, including: (1) Necessary and reasonable

1 costs incurred or to be incurred by PSAP's to implement wireless en-
2 hanced 911 service; (2) purchases of equipment and upgrades and mod-
3 ification to equipment used solely to process the data elements of wireless
4 enhanced 911 service; and (3) maintenance costs and license fees for such
5 equipment and the training of personnel to operate such equipment in-
6 cluding costs of training PSAP personnel to provide effective service to
7 all users of the emergency telephone system who have communications
8 disabilities. Such costs shall not include: **(A) Expenditures necessary**
9 **to provide wireless automatic location identification information**
10 **unless the municipality has taken competitive bids for provision of**
11 **such information and such expenditures are less than the bid of**
12 **the lowest responsible bidder; or (B)]** expenditures for new or ex-
13 panded buildings or similar facilities or to construct other capital im-
14 provements not expressly authorized by this act.

15 (c) Each PSAP shall submit to the secretary an annual report ac-
16 counting for the money received by the PSAP from the wireless enhanced
17 911 ~~tax~~ **local fee**. Such report shall be submitted on a form provided by
18 the secretary.

19 (d) (1) Subject to the provisions of subsection (d)(3), each PSAP shall
20 submit to wireless carriers a valid request for wireless enhanced 911 ser-
21 vice by July 1, 2006.

22 (2) Subject to the provisions of subsection (d)(3), if a PSAP has not
23 submitted to wireless carriers a valid request for wireless enhanced 911
24 service by July 1, 2006, such PSAP shall pay to the secretary all moneys
25 from the wireless enhanced 911 ~~tax~~ **local fee** which have been or are
26 received by such PSAP. The secretary shall remit such moneys to the
27 state treasurer in accordance with K.S.A. 75-4215, and amendments
28 thereto. Upon receipt of the remittance, the state treasurer shall deposit
29 the entire amount in the state treasury and credit it to the wireless en-
30 hanced 911 grant fund. Thereafter, such PSAP shall not be eligible to
31 receive moneys from the fund until the PSAP has submitted to the sec-
32 retary evidence satisfactory to the secretary that the PSAP has submitted
33 to wireless carriers a valid request for wireless enhanced 911 service.

34 (3) If a PSAP is unable to make a valid request by July 1, 2006, the
35 advisory board may approve extension of such date to not later than July
36 1, 2007, if the advisory board determines that: (A) Equipment necessary
37 to receive and utilize the data elements associated with wireless enhanced
38 911 service has been ordered by the PSAP but is unavailable; or (B) there
39 is other just cause to extend the date.

40 New Sec. 11. (a) Every billed wireless service user shall be liable for
41 the wireless enhanced 911 **grant** fee and the wireless enhanced 911 ~~tax~~
42 **local fee** until ~~the fee or tax has~~ **such fees have** been paid to the wireless
43 carrier.

1 (b) The duty to collect any such ~~fee or tax~~ **fees** from a wireless service
2 user shall commence July 1, 2004. Such ~~fee and tax~~ **fees** shall be added
3 to and may be stated separately in billings to the wireless service user. [**If**
4 **stated separately in billings, the fees shall be labeled “public safety**
5 **grants” and “public safety A.P. fee.”]**

6 (c) The wireless carrier shall have no obligation to take any legal ac-
7 tion to enforce the collection of the ~~wireless enhanced 911 fee or the~~
8 ~~wireless enhanced 911 tax~~ **fees imposed by this act**. The wireless carrier
9 shall provide annually to the secretary a list of amounts of uncollected
10 **wireless enhanced 911 grant** fees along with the names and addresses
11 of those wireless service users which carry a balance that can be deter-
12 mined by the wireless carrier to be nonpayment of ~~the wireless enhanced~~
13 ~~911 fee~~ **such fees**. The wireless carrier shall provide annually to the local
14 collection point administrator a list of amounts of uncollected ~~taxes~~ **wire-**
15 **less enhanced 911 local fees** along with the names and addresses of
16 those wireless service users which carry a balance that can be determined
17 by the wireless carrier to be nonpayment of ~~the wireless enhanced 911~~
18 ~~tax~~ **such fees**.

19 (d) The ~~wireless enhanced 911 fee and the wireless enhanced 911 tax~~
20 **fees imposed by this act** shall be collected insofar as practicable at the
21 same time as, and along with, the charges for wireless service in accord-
22 ance with regular billing practice of the wireless carrier.

23 (e) The wireless enhanced 911 **grant** fee and the amounts required
24 to be collected therefor are due monthly. The amount of any such fees
25 collected in one month by the wireless carrier shall be remitted to the
26 secretary not more than 15 days after the close of the calendar month.
27 On or before the 15th day of each calendar month following, a return for
28 the preceding month shall be filed with the secretary in such form as the
29 secretary and the wireless carrier shall agree. The wireless carrier re-
30 quired to file the return shall deliver the return together with a remittance
31 of the amount of the fees payable to the secretary. The wireless carrier
32 shall maintain records of the amount of any **such** fees collected pursuant
33 to action in accord with this act. Such records shall be maintained for a
34 period of three years from the time the fees are collected.

35 (f) The wireless enhanced 911 ~~tax~~ **local fee** and the amounts required
36 to be collected therefor are due monthly. The amount of any such ~~tax~~
37 **fees** collected in one month by the wireless carrier shall be remitted to
38 the local collection point administrator not more than 15 days after the
39 close of the calendar month. On or before the 15th day of each calendar
40 month following, a return for the preceding month shall be filed with the
41 local collection point administrator. Such return shall be in such form and
42 shall contain such information as required by the administrator. The wire-
43 less carrier required to file the return shall deliver the return together

1 with a remittance of the amount of the ~~taxes~~ **fees** payable to the local
2 collection point administrator. The wireless carrier shall maintain records
3 of the amount of any ~~taxes~~ **such fees** collected pursuant to action in
4 accord with this act. Such records shall be maintained for a period of
5 three years from the time the ~~tax is~~ **fees are** collected.

6 (g) In the case of prepaid wireless telephone service, the monthly
7 ~~wireless enhanced 911 fee and wireless enhanced 911 tax~~ **fees imposed**
8 **by this act** shall be remitted based upon each prepaid wireless telephone
9 associated with this state, for each subscriber account that has a sufficient
10 positive balance as of the last day of the month. The ~~fee and tax~~ **fees** shall
11 be remitted in any manner consistent with the wireless carrier's existing
12 operating or technological abilities, such as customer address, location
13 associated with the mobile telephone number or reasonable allocation
14 method based upon other comparable relevant data. The ~~fee and tax~~
15 ~~amount~~ **amount of the fees** or an equivalent number of minutes may
16 be deducted from the prepaid subscriber's account since a direct billing
17 may not be possible. ~~However, collection of the fee and tax in the manner~~
18 ~~of a deduction of value or minutes from the prepaid subscriber's account~~
19 ~~does not constitute a reduction in the sales price for purposes of taxes~~
20 ~~that are collected at the point of sale.~~

21 (h) The local collection point administrator shall distribute moneys
22 collected from the wireless enhanced 911 ~~tax~~ **local fee** to PSAP's based
23 upon primary place of use information provided by wireless carriers. The
24 local collection point administrator may retain an administrative fee of
25 not more than 2% of moneys collected from such ~~tax~~ **fee**.

26 (i) All payments and disbursements by the local collection point ad-
27 ministrator from moneys collected from the wireless enhanced 911 ~~tax~~
28 **local fee** shall be subject each year to post audit in accordance with article
29 11 of chapter 46 of the Kansas Statutes Annotated, and amendments
30 thereto.

31 New Sec. 12. In 2005, ~~the state corporation commission~~ **[secretary]**
32 shall require, and thereafter may require, an audit of any wireless carrier's
33 books and records concerning the collection and remittance of fees ~~and~~
34 ~~taxes~~ pursuant to this act. ~~The commission [secretary] shall ascertain the~~
35 ~~expenses of any such audit and by order shall assess such expenses against~~
36 ~~the wireless carrier audited~~ **[Any such audit shall be conducted at the**
37 **expense of the state corporation commission]**. Information provided
38 by wireless carriers to the ~~state corporation commission~~ **[secretary]** or
39 the advisory board pursuant to the wireless enhanced 911 act will be
40 treated as proprietary records which will be withheld from the public
41 upon request of the party submitting such records.

42 New Sec. 13. The wireless enhanced 911 service described in the
43 wireless enhanced 911 act is within the governmental power and authority

1 of the secretary, local collection point administrator, governing bodies and
2 public agencies. Except as provided by the Kansas tort claims act, in
3 contracting for such service and in providing such service, and except for
4 failure to use ordinary care, or for intentional acts, the secretary, local
5 collection point administrator, each governing body, each public agency,
6 each wireless carrier and their employees and agents shall not be liable
7 for the payment of damages resulting from the performance of installing,
8 maintaining or providing wireless enhanced 911 service.

9 New Sec. 14. (a) During calendar year 2006, the division of post
10 audit shall conduct an audit of the wireless enhanced 911 service system
11 to determine: (1) Whether ~~grant moneys and tax~~ moneys received by
12 municipalities pursuant to ~~this~~ **the wireless enhanced 911** act are being
13 used appropriately; (2) the amount of moneys collected pursuant to this
14 act is adequate; (3) the status of wireless enhanced 911 implementation;
15 and (4) the need and level of continued funding of the system. The audit
16 shall be in accordance with a scope statement authorized and approved
17 by the legislative post audit committee and shall be conducted in accord-
18 ance with article 11 of chapter 46 of the Kansas Statutes Annotated, and
19 amendments thereto.

20 (b) During the 12 months following July 1, 2008, the division of post
21 audit shall conduct an audit of the wireless enhanced 911 service system
22 to determine: (1) Whether ~~grant moneys and tax~~ moneys received by
23 municipalities pursuant to ~~this~~ **the wireless enhanced 911** act are being
24 used appropriately; (2) the amount of moneys collected pursuant to this
25 act is adequate; (3) the status of wireless enhanced 911 implementation;
26 and (4) the need and level of continued funding of the system. The audit
27 shall be in accordance with a scope statement authorized and approved
28 by the legislative post audit committee and shall be conducted in accord-
29 ance with article 11 of chapter 46 of the Kansas Statutes Annotated, and
30 amendments thereto.

31 New Sec. 15. Nothing in the wireless enhanced 911 act shall be con-
32 strued to limit the ability of a wireless carrier from recovering directly
33 from the carrier's customers its costs associated with designing, devel-
34 oping, deploying and maintaining wireless enhanced 911 service and its
35 costs of collection and administration of the ~~wireless enhanced 911 fee~~
36 ~~and wireless enhanced 911 tax~~ **fees imposed by this act**, whether such
37 costs are itemized on the customer's bill as a surcharge or by any other
38 lawful method.

39 New Sec. 16. All PSAP's and wireless carriers shall make a good faith
40 effort to ensure that wireless 911 calls placed near jurisdictional borders
41 are forwarded to the appropriate PSAP.

42 New Sec. 17. Upon notice to a PSAP of an application by a wireless
43 carrier for a waiver of the deadlines of the federal communications com-

1 mission for implementation of wireless enhanced 911, such PSAP shall
2 notify the secretary of such application.

3 New Sec. 18. On July 1, 2010:

4 (a) The wireless enhanced 911 **grant** fee shall be discontinued, the
5 advisory board shall be abolished, any unobligated balance of the wireless
6 enhanced 911 grant fund shall be paid to the local collection point ad-
7 ministrator for distribution to municipalities based on population and the
8 fund shall be abolished.

9 (b) Within any county which has a population of 40,000 or more, the
10 amount ~~of the tax~~ imposed pursuant to K.S.A. 12-5302, and amendments
11 thereto, shall not exceed \$.50 per month per access line or its equivalent
12 and the amount of the wireless enhanced 911 ~~tax~~ **local fee** within such
13 jurisdiction shall be an equal amount per month per wireless subscriber
14 account, except that either such ~~tax may exceed such amount~~ **amount**
15 **may exceed such limit** if revenues from ~~such tax~~ **either such amount**
16 were pledged to pay principal, interest and other costs associated with
17 bonds issued before the effective date of this act.

18 (c) Within any county which has a population of less than 40,000 the
19 amount ~~of the tax~~ imposed to K.S.A. 12-5302, and amendments thereto,
20 shall not exceed \$.75 per month per access line or its equivalent and the
21 amount of the wireless enhanced 911 ~~tax~~ **local fee** shall be an equal
22 amount per month per wireless subscriber account.

23 (d) The provisions of sections 3 through 9, and amendments thereto,
24 shall expire.

25 ~~Sec. 19. K.S.A. 12-5302 is hereby amended to read as follows: 12-~~
26 ~~5302. (a) In addition to other powers for the protection of the public~~
27 ~~health and welfare, a governing body may provide for the operation of an~~
28 ~~emergency telephone service and may pay for it by imposing an emer-~~
29 ~~gency telephone tax for such service in those portions of the governing~~
30 ~~body's jurisdiction for which emergency telephone service has been con-~~
31 ~~tracted. The governing body may do such other acts as are expedient for~~
32 ~~the protection and preservation of the public health and welfare and are~~
33 ~~necessary for the operation of the emergency telephone system. The gov-~~
34 ~~erning body is hereby authorized by ordinance in the case of cities and~~
35 ~~by resolution in the case of counties to impose such tax in those portions~~
36 ~~of the governing body's jurisdiction for which emergency telephone ser-~~
37 ~~vice has been contracted. Subject to the provisions of section 18, and~~
38 ~~amendments thereto, the amount of such tax shall not exceed \$.75 per~~
39 ~~month per exchange access line or its equivalent.~~

40 ~~(b) Within 60 days of the publication of a resolution by a county~~
41 ~~adopted pursuant to subsection (a) there may be filed with the county~~
42 ~~election officer of the county a petition signed by not less than 5% of the~~
43 ~~registered voters of the county, and within 60 days of publication of an~~

1 ordinance adopted pursuant to subsection (a) there may be filed with the
2 county election officer of the county in which the city is located a petition
3 signed by not less than 5% of the registered voters of the city, in either
4 such case requesting that the question of the installation and operation
5 of emergency telephone service and imposition of tax therefor be sub-
6 mitted to the qualified voters of the county. Upon determination of the
7 sufficiency of such petition and certification thereof by the county elec-
8 tion officer, the proposition shall be submitted to the qualified voters of
9 the county or city as the case may be at the next primary or general
10 election of county officers following by not less than 60 days the certifi-
11 cation of such petition. If a majority of the votes cast at such election are
12 for the installation and operation of emergency telephone service and
13 imposition of tax therefor, or if no protest petition is filed within the time
14 hereinbefore prescribed, the governing body may provide for the instal-
15 lation and operation of such service and impose such tax. If a tax is im-
16 posed on the effective date of this act or thereafter, any proposed increase
17 in the amount of the tax shall be subject to the protest petition provided
18 in this subsection. The proceeds of the tax shall be utilized to pay for the
19 operation of emergency telephone service as set forth in subsection (b)
20 of K.S.A. 12-5304, and amendments thereto, and may be imposed at any
21 time subsequent to execution of a contract with the provider of such
22 service at the discretion of the governing body. The collection of such tax
23 may begin at the time determined to be necessary to generate revenue
24 in an amount necessary to pay the nonrecurring expenses of establishing
25 the emergency telephone service. Any interest earned on revenue derived
26 from such tax shall be used to pay the expenses authorized by K.S.A. 12-
27 5304, and amendments thereto. Such tax shall not be imposed until after
28 the expiration of the protest period or until after approved at an election
29 if a sufficient protest petition is filed.
30 —(c) As an alternative to the procedure provided in subsection (b), the
31 governing body may submit, on its own initiative, the proposal to establish
32 an emergency telephone service to the qualified voters of the city or
33 county for approval. Any such election shall be called and held in the
34 manner provided by the general bond law.
35 —(d) Such tax shall be imposed only upon exchange access lines or their
36 equivalent. No such tax shall be imposed upon more than 100 exchange
37 access facilities or their equivalent per person per location.
38 —(e) Every billed service user shall be liable for any tax imposed under
39 this act *section* until it has been paid to the service supplier. Wireless
40 service users shall be exempt from the emergency telephone tax *under*
41 *this section but shall be subject to the wireless enhanced 911 fee imposed*
42 *under section 4, and amendments thereto, and the wireless enhanced 911*
43 *tax imposed under section 10, and amendments thereto.*

- 1 ~~—(f) The duty to collect any tax imposed under authority of this act~~
2 ~~section from a service user shall commence at such time as specified by~~
3 ~~the governing body. Taxes imposed under authority of this act section and~~
4 ~~required by it to be collected by the service supplier shall be added to~~
5 ~~and may be stated separately in the billings to the service user.~~
6 ~~—(g) The service supplier shall have no obligation to take any legal~~
7 ~~action to enforce the collection of any tax imposed under authority of this~~
8 ~~act section. The service supplier shall provide annually the governing body~~
9 ~~with a list of amounts uncollected along with the names and addresses of~~
10 ~~those service users which carry a balance that can be determined by the~~
11 ~~service supplier to be nonpayment of any tax imposed under authority of~~
12 ~~this act section.~~
13 ~~—(h) Any tax imposed under authority of this act section shall be col-~~
14 ~~lected insofar as practicable at the same time as, and along with, the~~
15 ~~charges for the tariff rate in accordance with the regular billing practice~~
16 ~~of the service supplier.~~
17 ~~—Sec. 20. K.S.A. 2003 Supp. 19-101a is hereby amended to read as~~
18 ~~follows: 19-101a. (a) The board of county commissioners may transact all~~
19 ~~county business and perform all powers of local legislation and adminis-~~
20 ~~tration it deems appropriate, subject only to the following limitations,~~
21 ~~restrictions or prohibitions:~~
22 ~~—(1) Counties shall be subject to all acts of the legislature which apply~~
23 ~~uniformly to all counties.~~
24 ~~—(2) Counties may not consolidate or alter county boundaries.~~
25 ~~—(3) Counties may not affect the courts located therein.~~
26 ~~—(4) Counties shall be subject to acts of the legislature prescribing~~
27 ~~limits of indebtedness.~~
28 ~~—(5) In the exercise of powers of local legislation and administration~~
29 ~~authorized under provisions of this section, the home rule power con-~~
30 ~~ferred on cities to determine their local affairs and government shall not~~
31 ~~be superseded or impaired without the consent of the governing body of~~
32 ~~each city within a county which may be affected.~~
33 ~~—(6) Counties may not legislate on social welfare administered under~~
34 ~~state law enacted pursuant to or in conformity with public law No. 271—~~
35 ~~74th congress, or amendments thereof.~~
36 ~~—(7) Counties shall be subject to all acts of the legislature concerning~~
37 ~~elections, election commissioners and officers and their duties as such~~
38 ~~officers and the election of county officers.~~
39 ~~—(8) Counties shall be subject to the limitations and prohibitions im-~~
40 ~~posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,~~
41 ~~prescribing limitations upon the levy of retailers' sales taxes by counties.~~
42 ~~—(9) Counties may not exempt from or effect changes in statutes made~~
43 ~~nonuniform in application solely by reason of authorizing exceptions for~~

- 1 ~~counties having adopted a charter for county government.~~
2 ~~—(10) No county may levy ad valorem taxes under the authority of this~~
3 ~~section upon real property located within any redevelopment project area~~
4 ~~established under the authority of K.S.A. 12-1772, and amendments~~
5 ~~thereto, unless the resolution authorizing the same specifically authorized~~
6 ~~a portion of the proceeds of such levy to be used to pay the principal of~~
7 ~~and interest upon bonds issued by a city under the authority of K.S.A.~~
8 ~~12-1774, and amendments thereto.~~
9 ~~—(11) Counties shall have no power under this section to exempt from~~
10 ~~any statute authorizing or requiring the levy of taxes and providing sub-~~
11 ~~stitute and additional provisions on the same subject, unless the resolution~~
12 ~~authorizing the same specifically provides for a portion of the proceeds~~
13 ~~of such levy to be used to pay a portion of the principal and interest on~~
14 ~~bonds issued by cities under the authority of K.S.A. 12-1774, and amend-~~
15 ~~ments thereto.~~
16 ~~—(12) Counties may not exempt from or effect changes in the provi-~~
17 ~~sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.~~
18 ~~—(13) Except as otherwise specifically authorized by K.S.A. 12-1,101~~
19 ~~through 12-1,109, and amendments thereto, counties may not levy and~~
20 ~~collect taxes on incomes from whatever source derived.~~
21 ~~—(14) Counties may not exempt from or effect changes in K.S.A. 19-~~
22 ~~430, and amendments thereto.~~
23 ~~—(15) Counties may not exempt from or effect changes in K.S.A. 19-~~
24 ~~302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.~~
25 ~~—(16) (A) Counties may not exempt from or effect changes in K.S.A.~~
26 ~~13-13a26, and amendments thereto.~~
27 ~~—(B) This provision shall expire on June 30, 2005.~~
28 ~~—(17) (A) Counties may not exempt from or effect changes in K.S.A.~~
29 ~~71-301a, and amendments thereto.~~
30 ~~—(B) This provision shall expire on June 30, 2005.~~
31 ~~—(18) Counties may not exempt from or effect changes in K.S.A. 19-~~
32 ~~15,139, 19-15,140 and 19-15,141, and amendments thereto.~~
33 ~~—(19) Counties may not exempt from or effect changes in the provi-~~
34 ~~sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-~~
35 ~~1226, and amendments thereto, or the provisions of K.S.A. 12-1260~~
36 ~~through 12-1270 and 12-1276, and amendments thereto.~~
37 ~~—(20) Counties may not exempt from or effect changes in the provi-~~
38 ~~sions of K.S.A. 19-211, and amendments thereto.~~
39 ~~—(21) Counties may not exempt from or effect changes in the provi-~~
40 ~~sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.~~
41 ~~—(22) Counties may not regulate the production or drilling of any oil~~
42 ~~or gas well in any manner which would result in the duplication of reg-~~
43 ~~ulation by the state corporation commission and the Kansas department~~

1 ~~of health and environment pursuant to chapter 55 and chapter 65 of the~~
2 ~~Kansas Statutes Annotated and any rules and regulations adopted pur-~~
3 ~~suant thereto. Counties may not require any license or permit for the~~
4 ~~drilling or production of oil and gas wells. Counties may not impose any~~
5 ~~fee or charge for the drilling or production of any oil or gas well.~~
6 ~~—(23) Counties may not exempt from or effect changes in K.S.A. 79-~~
7 ~~41a04, and amendments thereto.~~
8 ~~—(24) Counties may not exempt from or effect changes in K.S.A. 79-~~
9 ~~1611, and amendments thereto.~~
10 ~~—(25) Counties may not exempt from or effect changes in K.S.A. 79-~~
11 ~~1494, and amendments thereto.~~
12 ~~—(26) Counties may not exempt from or effect changes in subsection~~
13 ~~(b) of K.S.A. 19-202, and amendments thereto.~~
14 ~~—(27) Counties may not exempt from or effect changes in subsection~~
15 ~~(b) of K.S.A. 19-204, and amendments thereto.~~
16 ~~—(28) Counties may not levy or impose an excise, severance or any~~
17 ~~other tax in the nature of an excise tax upon the physical severance and~~
18 ~~production of any mineral or other material from the earth or water.~~
19 ~~—(29) Counties may not exempt from or effect changes in K.S.A. 79-~~
20 ~~2017 or 79-2101, and amendments thereto.~~
21 ~~—(30) Counties may not exempt from or effect changes in K.S.A. 2-~~
22 ~~3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-~~
23 ~~1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments~~
24 ~~thereto.~~
25 ~~—(31) Counties may not exempt from or effect changes in K.S.A. 2003~~
26 ~~Supp. 80-121, and amendments thereto.~~
27 ~~—(32) Counties may not exempt from or effect changes in K.S.A. 19-~~
28 ~~228, and amendments thereto.~~
29 ~~—(33) Counties may not exempt from or effect changes in the wireless~~
30 ~~enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308,~~
31 ~~and amendments thereto.~~
32 ~~—(b) Counties shall apply the powers of local legislation granted in~~
33 ~~subsection (a) by resolution of the board of county commissioners. If no~~
34 ~~statutory authority exists for such local legislation other than that set forth~~
35 ~~in subsection (a) and the local legislation proposed under the authority~~
36 ~~of such subsection is not contrary to any act of the legislature, such local~~
37 ~~legislation shall become effective upon passage of a resolution of the~~
38 ~~board and publication in the official county newspaper. If the legislation~~
39 ~~proposed by the board under authority of subsection (a) is contrary to an~~
40 ~~act of the legislature which is applicable to the particular county but not~~
41 ~~uniformly applicable to all counties, such legislation shall become effec-~~
42 ~~tive by passage of a charter resolution in the manner provided in K.S.A.~~
43 ~~19-101b, and amendments thereto.~~

1 ~~(c) Any resolution adopted by a county which conflicts with the re-~~
2 ~~strictions in subsection (a) is null and void.~~

3 ~~Sec. 21. K.S.A. 12-5302 and K.S.A. 2003 Supp. 19-101a are hereby~~
4 ~~repealed.~~

5 Sec. ~~22~~ **19**. This act shall take effect and be in force from and after
6 its publication in the Kansas register.

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