

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2590**

As Agreed to March 24, 2006

Brief*

HB 2590 would enact the VoIP (Voice over Internet Protocol) Enhanced 911 Act. The bill would establish requirements for providers of VoIP services regarding transmission of emergency 911 calls to Public Safety Answering Points (PSAP) and collection and remittance of fees to be used to ensure that PSAPs that receive emergency 911 phone calls can reliably locate callers placing such calls. VoIP enhanced 911 service would be defined to be that service by which VoIP providers can provide automatic or pseudo-automatic number identification and VoIP automatic location identification information to a requesting PSAP. The VoIP provisions of the bill parallel statutes enacted by the 2004 Legislature that created a funding mechanism for wireless enhanced 911 services. The bill also would extend for one year, to July 1, 2007, the deadline for PSAPs to submit to wireless carriers a request for wireless enhanced 911 service.

Improvements required by PSAPs for VoIP enhanced 911 service would be financed from a combination of grants and local fee revenue. Grant funds would be generated from a 25¢ per month fee imposed on each VoIP service user in the state. Grants will be available to counties with populations under 75,000 and to cities in those counties. An additional 25¢ per month local e-911 fee would be imposed on each VoIP service user account in the state. Revenue from that fee would be used by localities, regardless of size, to finance e-911 improvements. However, a VoIP service user is not required to pay, nor is a VoIP provider required to collect the \$.25 VoIP enhanced 911 grant fee or the VoIP enhanced 911 local fee if the emergency telephone tax or the wireless enhanced 911 grant fee is collected and paid.

Authority for the grant fee and related provisions of the bill would expire on July 1, 2010. Also at that time, the VoIP local fee and the

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existing wireline and wireless 911 assessments would be equalized. The local fee along with the existing wireline and wireless 911 taxes would provide ongoing support for the e-911 system.

The bill would authorize the Secretary of Administration to administer the provisions of the VoIP Enhanced 911 Act and to adopt rules and regulations necessary to implement the Act. Those rules and regulations would include civil penalties for violation of the Act. The bill would provide that any civil penalty imposed under the authority of the Act could be appealed in accordance with the Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of Agency Actions. Amounts recovered as civil penalties would be used for purposes authorized by the Act. The bill also provides for audits and reports to the Secretary of Administration and the Legislature regarding the use of revenue generated under the Act.

The bill would amend the Wireless Enhanced 911 Act to authorize the Secretary of Administration to include among the rules and regulations adopted to implement that Act, civil penalties for violation of the Act. The bill would provide that any civil penalty imposed under the authority of the Act could be appealed in accordance with the Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of Agency Actions. Amounts recovered as civil penalties would be used for purposes authorized by the Act.

Conference Committee Action

The Conference Committee agreed to the bill as amended by the Senate Committee of the Whole and agreed to further amend the bill to:

- Authorize the Secretary of Administration to adopt rules and regulations creating civil penalties for violations of the VoIP Enhanced 911 Act and the Wireless Enhanced 911 Act and to provide an appeal procedure for persons subject to those civil penalties.

Background

Proponents of the bill at the House Utilities Committee hearing included Representative Tom Sloan and a representative of SBC-Kansas. No opponents to the bill presented testimony to the House

Committee.

The House Committee amended the bill to:

- Add a definition of the term “interconnected VoIP service” based on the definition used in federal regulations, *i.e.*, a service that:
 - Enables real-time, two-way voice communications;
 - Requires a broadband connection from the user's location;
 - Requires Internet protocol-compatible customer premises equipment (CPE); and
 - Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. (47 C.F.R. 9.3);
- Provide protection from liability for the Secretary of Administration, the Local Collection Point Administrator, governing bodies, public agencies, and VoIP providers, in regard to the performance of installing, maintaining or providing VoIP enhanced 911 service, except for gross negligence;
- Provide the same limitations of liability for VoIP providers and their officers, directors, employees, vendors and agents as provided to wireless carriers under federal law (47 U.S.C. 615a effective October 26, 1999); and
- Extend to July 1, 2007, the deadline for PSAPs to request wireless e-911 service from wireless carriers.

The Senate Committee amended the bill to clarify that a VoIP service user is not required to pay, nor is a VoIP provider required to collect the \$.25 VoIP enhanced 911 grant fee or the VoIP enhanced 911 local fee if the emergency telephone tax or the wireless enhanced 911 grant fee is collected and paid.

The Senate Committee of the Whole amended the bill to provide that the Secretary of Administration would administer the Wireless Enhanced 911 Act, adopt rules and regulations necessary to effectuate the provisions of the Act and would be responsible for administration and management of the fund.

Proponents of the bill at the Senate Utilities Committee hearing included Representative Tom Sloan and representatives from the League of Kansas Municipalities and AT&T. A representative of the Kansas Trial Lawyers Association provided neutral testimony.

The Division of the Budget's fiscal note for the original bill states that the estimate of revenue that would be generated by the bill is based on an estimated 100,000 VoIP subscribers by the end of calendar year 2005. That number of subscribers paying total fees of \$0.50 per month for services, would generate \$300,000 for the VoIP Enhanced 911 Grant Fee Fund, and \$300,000 for the local fund. The fiscal note states that any fiscal effect resulting from enactment of HB 2590 would be in addition to amounts contained in *The FY 2007 Governor's Budget Report*.