

SENATE BILL No. 384

By Committee on Utilities

2-6

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.

4
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,

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

1 repealed.

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