

HOUSE BILL No. 2334

By Committee on Utilities

2-12

AN ACT concerning telecommunications; relating to enhanced wireless 911 service; public safety loan fund; amending K.S.A. 12-5302 and repealing the existing section.

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

New Section 1. As used in this act:

(a) "Commission" means the Kansas corporation commission.

(b) "Fund" means the public safety loan fund established by this act.

(c) "Municipality" means: (1) Any political or taxing subdivision authorized by law to construct, operate and maintain a public safety answering point system; and (2) two or more such subdivisions jointly constructing, operating and maintaining a public safety answering point system.

(d) "Project" means the development and acquisition of the necessary improvements in order to facilitate the establishment of enhanced wireless emergency telephone services.

(e) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.

(f) "PSAP" means public safety answering point.

(g) "Wireless carrier" means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice or text radio service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point.

New Sec. 2. (a) There is hereby established in the state treasury the public safety loan fund.

(b) Moneys from the following sources shall be credited to the fund:

(1) Amounts received by the state from the federal government for the purposes of the fund;

(2) amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(3) amounts received by the state pursuant to section 3, and amendments thereto;

(4) amounts of repayments of loans made under this act, together with payments of interest thereon, in accordance with agreements en-

1 tered into by the borrower and the commission;

2 (5) interest attributable to investment of moneys in the fund; and

3 (6) amounts received from any public or private entity for the pur-
4 poses of the fund.

5 (c) Subject to the conditions and in accordance with requirements of
6 this act, moneys credited to the fund shall be used only:

7 (1) To make loans to municipalities for payment of all or part of pro-
8 ject costs;

9 (2) to earn interest on moneys in the fund; and

10 (3) for the reasonable costs, as determined by the commission, of
11 administering the fund and conducting activities under this act. Such costs
12 shall be identified annually in development of the intended use plan as
13 described in section 6, and amendments thereto.

14 (d) On or before the 10th of each month, the director of accounts
15 and reports shall transfer from the state general fund to the public safety
16 loan fund interest earnings based on:

17 (1) The average daily balance of moneys in the public safety loan fund
18 for the preceding month; and

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

21 (e) All payments and disbursements from the fund shall be made in
22 accordance with appropriation acts upon warrants of the director of ac-
23 counts and reports issued pursuant to vouchers approved by the com-
24 mission or by a person or persons designated by the commission. All
25 payments and disbursements from the fund, and beginning and ending
26 balances thereof, shall be subject each year to post audit in accordance
27 with article 11 of chapter 46 of the Kansas Statutes Annotated, and
28 amendments thereto.

29 New Sec. 3. (a) There is hereby established a public safety fee in the
30 amount of \$.25 per month on each wireless service user.

31 (b) It shall be the duty of each wireless service provider to collect
32 and remit such fee to the state treasurer for deposit in the public safety
33 loan fund established pursuant to this act.

34 (c) From every remittance, the service supplier required to remit the
35 same shall be entitled to deduct and retain, as an administrative fee, an
36 amount equal to 2% thereof.

37 New Sec. 4. The commission shall administer the provision of this
38 act and shall be responsible for administration and management of the
39 fund. The commission is hereby authorized to:

40 (a) Enter into binding commitments for the provision of loans in ac-
41 cordance with the provisions of this act;

42 (b) review applications of municipalities for loans and select the pro-
43 jects for which loans will be made available;

1 (c) provide the governor and the legislature with an annual report
2 prepared in accordance with section 9, and amendments thereto, and with
3 copies of the audit required under section 2, and amendments thereto;
4 and

5 (d) adopt rules and regulations necessary for effectuation of the pro-
6 visions of this act.

7 New Sec. 5. (a) There is hereby established the public safety loan
8 fund advisory committee. Such committee shall be comprised of nine
9 individuals with seven individuals appointed by the governor satisfying
10 the following constituent groups:

11 (1) One individual recommended by the Kansas association of
12 counties;

13 (2) one individual recommended by the league of Kansas
14 municipalities;

15 (3) one individual representing the wireless carriers industry;

16 (4) one individual representing local exchange service providers;

17 (5) one individual representing local law enforcement;

18 (6) one individual representing local fire/emergency medical services;

19 and

20 (7) one individual representing local PSAP operators.

21 (b) The remaining two members of the advisory council shall be leg-
22 islators appointed by the legislative coordinating council.

23 New Sec. 6. After providing for public comment and review each
24 year, the commission, in conjunction with the advisory council, shall pre-
25 pare a plan identifying the intended uses of the moneys available in the
26 fund. The intended use plan shall include, but not be limited to:

27 (a) The project priority list;

28 (b) a description of the short- and long-term goals and objectives of
29 the fund;

30 (c) information on the projects to be financed, including a description
31 thereof, the terms of loans to be provided and the municipalities receiving
32 the loans; and

33 (d) the criteria and method established for the provision of loans to
34 be made from the fund.

35 New Sec. 7. (a) Municipalities which desire the provision of loans
36 under this act shall submit an application therefor to the commission.
37 Applications shall be in such form and shall include such information as
38 the commission shall require and shall be submitted in a manner and at
39 a time to be determined by the commission.

40 (b) The commission may enter into agreements with any municipality
41 for the provision of a loan thereto for payment of all or a part of project
42 costs and any municipality may enter into such an agreement and may
43 accept such loan when so authorized by the municipal governing body.

1 The purposes of the loan to be provided, the amount thereof, the interest
2 rate thereon and the repayment terms and conditions thereof, all of which
3 may vary among municipalities, shall be included in the agreements.
4 Loans shall be provided at or below market interest rates. All such agree-
5 ments with municipalities shall require that municipalities establish a ded-
6 icated source of revenue for repayment of the loans as provided in section
7 8, and amendments thereto. Such agreements shall further provide that
8 repayment of any loan received shall begin not later than six months after
9 completion of the project and that such loan shall be repaid in full no
10 later than 10 years thereafter.

11 (c) If a municipality to which a loan is made available under this act
12 fails to enter into an agreement with the commission for the provision of
13 such loan in accordance with the requirements of this act, the commission
14 may make the amount of the loan available for one or more other projects
15 on the priority list.

16 (d) The commission shall provide any municipality, upon request,
17 with technical advice and assistance regarding a project or an application
18 for a loan for the payment of all or part of project costs.

19 New Sec. 8. (a) The dedicated source of revenue for repayment of
20 a loan to a municipality may include service charges, connection fees,
21 special assessments, property taxes, grants or any other source of revenue
22 lawfully available to the municipality for such purpose. In order to ensure
23 repayment by municipalities of the amounts of loans provided under this
24 act, the commission, after consultation with the governing body of any
25 municipality which receives a loan, may adopt charges to be levied against
26 individuals and entities served by the project. Any such charges shall
27 remain in effect until the total amount of the loan, and any interest
28 thereon, has been repaid. The charges, insofar as is practicable, shall be
29 equitably assessed and may be in the form of a surcharge to the existing
30 charges of the municipality. The governing body of any municipality
31 which receives a loan under this act shall collect any charges established
32 by the commission and shall pay the moneys collected therefrom to the
33 commission in accordance with procedures established by the
34 commission.

35 (b) Upon the failure of a municipality to meet the repayment terms
36 and conditions of the agreement, the commission may order the treasurer
37 of the county in which the municipality is located to pay to the commission
38 such portion of the municipality's share of the local ad valorem tax re-
39 duction fund as may be necessary to meet the terms of the agreement,
40 notwithstanding the provisions of K.S.A. 79-2960 and 79-2961, and
41 amendments thereto. Upon the issuance of such an order, the munici-
42 pality shall not be required to make the tax levy reductions otherwise
43 required by K.S.A. 79-2960 and 79-2961, and amendments thereto.

1 (c) Municipalities which are provided with loans under this act shall
2 maintain project accounts in accordance with generally accepted govern-
3 ment accounting standards.

4 (d) Any loans received by a municipality under the provisions of this
5 act shall be construed to be bonds for the purposes of K.S.A. 10-1116
6 and 79-5028, and amendments thereto, and the amount of such loans
7 shall not be included within any limitation on the bonded indebtedness
8 of the municipality.

9 New Sec. 9. The commission shall prepare an annual report describ-
10 ing how the state has met the goals and objectives for the previous year
11 as identified in the intended use plan prepared pursuant to section 6, and
12 amendments thereto.

13 New Sec. 10. The provisions of this section and sections 1 through
14 9, and amendments thereto, shall expire on June 30, 2013.

15 Sec. 11. K.S.A. 12-5302 is hereby amended to read as follows: 12-
16 5302. (a) In addition to other powers for the protection of the public
17 health and welfare, a governing body may provide for the operation of an
18 emergency telephone service and may pay for it by imposing an emer-
19 gency telephone tax for such service in those portions of the governing
20 body's jurisdiction for which emergency telephone service has been con-
21 tracted. The governing body may do such other acts as are expedient for
22 the protection and preservation of the public health and welfare and are
23 necessary for the operation of the emergency telephone system. The gov-
24 erning body is hereby authorized by ordinance in the case of cities and
25 by resolution in the case of counties to impose such tax in those portions
26 of the governing body's jurisdiction for which emergency telephone serv-
27 ice has been contracted. The amount of such tax shall not exceed \$.75
28 per month per exchange access line or its equivalent.

29 (b) Within 60 days of the publication of a resolution by a county
30 adopted pursuant to subsection (a) there may be filed with the county
31 election officer of the county a petition signed by not less than 5% of the
32 registered voters of the county, and within 60 days of publication of an
33 ordinance adopted pursuant to subsection (a) there may be filed with the
34 county election officer of the county in which the city is located a petition
35 signed by not less than 5% of the registered voters of the city, in either
36 such case requesting that the question of the installation and operation
37 of emergency telephone service and imposition of tax therefor be sub-
38 mitted to the qualified voters of the county. Upon determination of the
39 sufficiency of such petition and certification thereof by the county elec-
40 tion officer, the proposition shall be submitted to the qualified voters of
41 the county or city as the case may be at the next primary or general
42 election of county officers following by not less than 60 days the certifi-
43 cation of such petition. If a majority of the votes cast at such election are

1 for the installation and operation of emergency telephone service and
2 imposition of tax therefor, or if no protest petition is filed within the time
3 hereinbefore prescribed, the governing body may provide for the instal-
4 lation and operation of such service and impose such tax. If a tax is im-
5 posed on the effective date of this act or thereafter, any proposed increase
6 in the amount of the tax shall be subject to the protest petition provided
7 in this subsection. The proceeds of the tax shall be utilized to pay for the
8 operation of emergency telephone service as set forth in subsection (b)
9 of K.S.A. 12-5304, and amendments thereto, and may be imposed at any
10 time subsequent to execution of a contract with the provider of such
11 service at the discretion of the governing body. The collection of such tax
12 may begin at the time determined to be necessary to generate revenue
13 in an amount necessary to pay the nonrecurring expenses of establishing
14 the emergency telephone service. Any interest earned on revenue derived
15 from such tax shall be used to pay the expenses authorized by K.S.A. 12-
16 5304, and amendments thereto. Such tax shall not be imposed until after
17 the expiration of the protest period or until after approved at an election
18 if a sufficient protest petition is filed.

19 (c) As an alternative to the procedure provided in subsection (b), the
20 governing body may submit, on its own initiative, the proposal to establish
21 an emergency telephone service to the qualified voters of the city or
22 county for approval. Any such election shall be called and held in the
23 manner provided by the general bond law.

24 ~~(d) Such tax shall be imposed only upon exchange access lines or their~~
25 ~~equivalent. No such tax shall be imposed upon more than 100 exchange~~
26 ~~access facilities or their equivalent per person per location.~~

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

30 ~~—(f) (e)~~ The duty to collect any tax imposed under authority of this act
31 from a service user shall commence at such time as specified by the
32 governing body. Taxes imposed under authority of this act and required
33 by it to be collected by the service supplier shall be added to and may be
34 stated separately in the billings to the service user.

35 ~~(g) (f)~~ The service supplier shall have no obligation to take any legal
36 action to enforce the collection of any tax imposed under authority of this
37 act. The service supplier shall provide annually the governing body with
38 a list of amounts uncollected along with the names and addresses of those
39 service users which carry a balance that can be determined by the service
40 supplier to be nonpayment of any tax imposed under authority of this act.

41 ~~(h) (g)~~ Any tax imposed under authority of this act shall be collected
42 insofar as practicable at the same time as, and along with, the charges for
43 the tariff rate in accordance with the regular billing practice of the service

1 supplier. *Nothing in this section shall be construed to limit the ability of*
2 *wireless carriers to recover costs associated with providing emergency*
3 *telephone service.*

4 Sec. 12. K.S.A. 12-5302 is hereby repealed.

5 Sec. 13. This act shall take effect and be in force from and after its
6 publication in the statute book.

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