

Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on February 2, 2009, in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Melissa Doeblin, Office of the Revisor of Statutes
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Ann McMorris, Committee Assistant

Conferees appearing before the committee:

Kim Winn, League of Kansas Municipalities
Michael Murray, Embarq
Patrick Fucik, Sprint

Others attending:

See attached list.

Chair continued the hearing on:

SB 48 - Enhanced wireless and VoIP 911 service amendments, collection and disbursement of certain funds.

Neutral

Kim Winn, League of Kansas Municipalities, noted LKM had been involved for about 10 years in E911 and support the system. They are available to work with the committee and others on this bill.

Michael Murray, Embarq, noted members of the telecommunications industry came to a consensus on a few principles. He discussed concerns and suggestions to improve the bill. (1) Five years is a more appropriate length of time to extend the bill, given the rapidly changing technologies. (2) It is important for the less populated areas to have the grant fund to draw from to implement and maintain E911 services. (3) Prefer the current wording regarding appropriate use of 911 funds. (4) Principal concern of Embarq is the matter of parity. (Attachment 1)

Patrick Fucik, Sprint, addressed two areas of the bill; (1) the issue of carrier cost recovery to reimburse carriers for their ongoing costs in deploying 911 and E911 services. (2) the second issue deals with the collection of the E911 grant fee in the amount of 1% of the retail price of any prepaid wireless services sold in Kansas. (Attachment 2)

Written testimony only from:

Dina Fisk, Verizon (Attachment 3)
Ron DeGarmo, Kansas Legislative Policy Group (Attachment 4)

Chair opened for questions. Committee asked for more data on sales of prepaid wireless services. Discussion on the requirement for audit contained in the bill. On the matter of parity, the demand for services from wireless is greater than on wireline.

At this point, the Chair asked the committee for their input on areas of the bill where more information would be helpful. Areas noted were (1) 10 year period; (2) post audit requirements; (3) definition on use of funds; (4) parity between wireless and wireline.

Other issues of concern were policy issues regarding "emergency communications system"; replacement of equipment - who should finance it; more information on parity (Embarq will provide this); possibility of consolidation; more information on use of towers; interfacing with Homeland Security.

CONTINUATION SHEET

Minutes of the Senate Utilities Committee at 1:30 p.m. on February 2, 2009, in Room 446-N of the Capitol.

Chair announced the hearing on **SB 48** would remain open and further information would be presented at the committee meeting on February 3, 2009.

The next meeting is scheduled for February 3, 2009.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,

Ann McMorris
Committee Assistant

Attachments - 4

GUEST LIST
 SENATE UTILITIES COMMITTEE
 FEBRUARY 2, 2009

<u>NAME</u>	<u>COMPANY</u>
Josh Smith	Sen. Pyle, Intern
Mary Messamore	Hutchinson-Rend Co 9-1-1
JAMES (Jimmy) REED	Sumner County 911
Michele Anhalt beer	Marion CO / FEMA / APCO
Walter Way	Johnson County
Enca Haas	Governor's office
Jamie Bouser	Governor's office
Julienne Mosler	Gov Office
Dina Fisk	Verizon
Nelson Krueger	Sure West
Jacquie Stineman	U.S. Cellular
Truly Allen	KRITC
Chris Davis	Butler County 911
Nautil Hartnet	CCP
Eden Jensen	Cox
Mike Murray	Emberg
Randy Wadley	"
Travis Lowe	Pines, Smith, #ASSOC
Tom Thompson	Sierra Club

GUEST LIST
SENATE UTILITIES COMMITTEE
FEBRUARY 2, 2009

NAME

COMPANY

Mike Reecht

Sprint

Patricia Fucik

Sprint

Stuart Little

Little Bort. Relations

TOM DAY

KCC

Steve Kennedy

ALLTEL

Tam Thompson

Sierra Club

Mari Tucker

Dept of Commerce



Before the Senate Utilities Committee
January 30, 2009
SB 48
Michael R. Murray, Embarq

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to comment on SB 48 which deals with the E911 system in Kansas. This week members of the telecommunications industry including Sprint-Nextel, AT&T, Embarq, Verizon, T-Mobile and US Cellular met in person and via conference call and generally came to a consensus on a few principles. None of these companies is opposed to the 911 services or to the extension of the 911 surcharges. Quite to the contrary. While we have some suggestions to improve the bill, we are partners with local PSAPs in the provision of E911 services.

We offer these concerns and suggestions:

1. The bill extends the E911 surcharges for 10 additional years to the year 2020. We believe 5 years is a more appropriate length of time, given the rapidly changing technologies occurring within the telecommunications industry which is driving the evolution of the "next generation" E911 network. The issue can be addressed again in five years as technology and the telecommunications environment change. The "next generation" of 911 technology and national policy will be coming, but we can't say when. We think waiting 10 years to review E911 is too long.

2. As for the grant fund, there may be some who are less than enthusiastic about its continuation, and they may express that sentiment. However, I know that Embarq, AT&T and Sprint believe it is important for the less populated areas to have such a fund to draw from to implement and maintain E911 services.

3. The bill as written could be interpreted as expanding the purposes for which E911 funds could be used by including the term "operating expenses" and "emergency communications systems". We would prefer that the current wording regarding appropriate use of 911 funds remain intact.

The Legislature expressly limited what E911 funds could be used for in the 2004 legislation. We would rather keep these provisions as they were adopted in 2004.

We believe that the line of demarcation for what is eligible to be paid for out of the E911 surcharges should be drawn at the PSAP facility.

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Attachment 1-1

4. Another issue which is a principal concern of Embarq is the matter of parity. Embarq believes, and I know AT&T agrees, that it is time for there to be parity between the wireline 911 surcharge and the wireless and VoIP E911 surcharge. Wireline customers pay up to .75 per month per line. Wireless and VoIP customers pay .50 per month per line.

According to the Cellular Telecommunications Industry Association, 18% of the US population uses only a wireless telephone. 30% make and receive most of their telephone calls on a wireless phone. There are 255 million wireless telephones in the US which equates to one wireless phone for everyone age 9 and above.

And, the bulk of calls to 911 are made by wireless customers.

All this is to say that the number of wirelines is declining as are the revenues for 911 generated by wireline customers, and the number of wireless and VoIP customers is increasing as are the E911 revenues generated by those customers. Wireline customers are bearing a disproportionate share of the 911 cost.

Parity of the surcharge is a competitive issue, too. As a wireline carrier, we compete to provide communication services with cable companies offering VoIP and with the wireless companies many of whose customers substitute wireless service for wireline service. In the case of 911, the wireline companies have a built in price disadvantage of .75 versus .50 per line per month (except in Johnson County). We are willing to work with the proponents of this bill to develop a provision that would transition to parity between wireline, wireless and VoIP surcharges.

We've discussed the bill with the Association of Counties and the PSAP organization leadership, and look forward to working with those entities and the members of this Committee to arrive at a legislative solution which is fair to all parties.

Respectfully, we ask that the committee modify SB 48 bill to address these concerns.

The Sprint logo features the word "Sprint" in a bold, sans-serif font.

Together with NEXTEL

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Overland Park, KS 66251
Mailstop: KSOPHN212-2A353

Patrick R. Fucik
Director, Central Region
State Government Affairs
913-315-9155

**Testimony of Sprint Nextel on SB 48
Before the Senate Utilities Committee
Presented by Patrick Fucik
January 29, 2009**

Thank you Mr. Chairman, members of the Committee. My name is Patrick Fucik and I am the Director of State Government Affairs in the West Region for Sprint Nextel. Thank you for the opportunity to present comments regarding SB 48. While Sprint supports the continuation of the existing 911 funding mechanisms in order to provide additional funding to the counties and PSAPs for this vital public safety tool, we join with other members of the industry to express reservations about some of the proposed changes in SB 48.

I want to thank the PSAP and county representatives that have met with us previously to discuss the provisions of the bill and we look forward to a continued dialog with them on this issue. In addition to what you have already heard from other carrier representatives, I would like to point out two areas that Sprint would like to address.

The first is the issue of carrier cost recovery to reimburse carriers for their ongoing costs in deploying 911 and Enhanced, or E911, services. Just as some carriers are seeking parity in the amount of the 911 surcharge imposed on wireline customers, Sprint believes there should be parity in the ability of wireless carriers to recover our costs for Phase I deployment. Currently, wireline carriers are able to recover their tariffed rates directly from the PSAP while wireless carriers do not. The only option that wireless carriers have to recover our ongoing cost is to assess a charge on our customers. Given the already high rate of taxation on wireless customers nationwide, adding an additional surcharge on our customers in Kansas is not something Sprint supports. Sprint is currently able to collect our Phase I costs in 23 states from funds collected through E911 surcharges in those states.

The second issue has to do with the collection the E911 grant fee in the amount of 1% of the retail price of any prepaid wireless services sold in Kansas. Currently that fee is collected by each wholesaler of prepaid service and remitted to the Secretary of Administration. This means that the carriers that offer prepaid services are paying the grant fee rather than the fee being paid by the end user as is the case with wireline and post-paid wireless customers.

Wireless carriers including Sprint are working with our national wireless industry association, CTIA, to promote a different model for collecting E911 fees on prepaid customers that provides for the payment of that fee at the point of sale. By collecting the E911 fee at the point of sale, the fee is imposed on the beneficiary of the service rather than the provider.

Thank you for allowing me this time to address this important matter and I would be happy to answer any questions.

Senate Utilities Committee
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Attachment 2-1



Senate Utilities Committee

SB 48

January 29, 2009

Mr. Chairman and Members of the Committee,

My name is Dina Fisk and I am the representative for Verizon in the state of Kansas. Today I would like speak on SB48 and the extension of the E911 grant fund. Verizon supports the deployment of the E911 emergency response system to every part of Kansas and wants to see it accessible for every citizen. Verizon believes that the best way to ensure that the 911 fee being collected from our customers is being used for its intended purpose is to create an audit of the fund.

When the E911 fund was created there were very strict definitions of the equipment the fee would be used to pay for to provide emergency services. From Verizon's perspective these fees must be exclusively spent for the acquisition and deployment of the emergency equipment needed by the PSAPs to provide emergency telephone response. To ensure that these fees are being utilized in accordance with legislative intent, we believe that an audit provision must be adopted to ensure that the 911 funds are not spent on resources that are more appropriately funded through general public revenues.

In other states where this audit provision has been adopted, they have found that the fund was being used for non-911 emergency expenditures and measures were taken to correct the misappropriations. Many of these resources were intended to be funded by other revenue sources provided by either the local or state government. Verizon also wants to ensure that before there is a suggestion of an increase in the E911 fee, that there should be an accountability of need first. Verizon wants to maximize the benefit of this fund for our customers and for every person that will be helped through the emergency response system. We do not want to see this turn into a fund that is being used for non-PSAP related expenses that then distorts the intended purpose of the fee.

I would ask that you consider the following amendment that calls for an audit of the fund to discover where and how the monies being collected are being spent. Verizon believes that this accountability measure will give the state a clearer view of the needs of the fund and if the fee is being set at an accurate rate.

Thank you for your consideration,

Dina Fisk on behalf of Verizon

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Attachment 3-1

SB48 - Verizon Amendment:

Develop criteria for the implementation of performance audits of the collection and Use of the 911 fees utilized in the operation of the 911 system. The audit shall be conducted by the Department of Legislative Audit and shall be presented to the board and the Legislature; and “



KANSAS LEGISLATIVE POLICY GROUP

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**Testimony of
Commissioner Ron DeGarmo
Morton County Commissioner
President, Kansas Legislative Policy Group
Before the Senate Committee on Utilities**

Senate Bill 48

February 2, 2009

Dear Chairman Apple and Members of the Committee:

The Kansas Legislative Policy Group (KLP) is pleased to provide written testimony in support of Senate Bill 48. The KLP is a bipartisan, non-profit corporation of elected commissioners from 30 western Kansas counties. We appreciate the opportunity to submit remarks on this issue, which is of great importance to our member counties.

Senate Bill 48 is necessary in order for our member counties to provide quality enhanced 911 services. The legislation will allow our counties to provide the best possible service with improved technology and the latest equipment.

Expiration of K.S.A. 12-5338 would result in a decrease in the quality of E-911 services as equipment ages. Extending the enhanced 911 grant fees for another ten years will allow our member counties to maintain quality 911 services well into the future.

We encourage the Committee to favorably consider Senate Bill No. 48.

Thank you for your consideration and the opportunity to present these written remarks.

Senate Utilities Committee
February 2, 2009
Attachment 4-1