

CHAPTER 72

HOUSE Substitute for Substitute for SENATE BILL No. 153
(Amended by Chapter 180)

AN ACT concerning emergency telephone service; enacting the wireless enhanced 911 act; imposing certain fees; providing for certain grants; amending K.S.A. 12-5302 and K.S.A. 2003 Supp. 19-101a and repealing the existing sections.

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

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

(b) If any provisions of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provisions or application. To this end the provisions of this act are severable.

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

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

(b) "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.

(c) "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.

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

(e) "Enhanced 911 service" means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

(f) "Exchange access facilities" means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user.

(g) "Fund" means the wireless enhanced 911 grant fund established by this act.

(h) "Governing body" means the board of county commissioners of a county or the governing body of a city.

(i) "Local collection point administrator" means the statewide association of cities as established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties as established by K.S.A. 19-2690, and amendments thereto.

(j) "Mobile telephone number" means the telephone number assigned to a wireless telephone at the time of initial activation.

(k) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other legal entity.

(l) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.

(m) "Primary place of use" has the meaning provided in the mobile telecommunications act (4 U.S.C. 116, *et seq.*, as in effect on the effective date of this act).

(n) "Project" means the development and acquisition of the necessary improvements in order to facilitate the establishment of wireless enhanced 911 service.

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

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

(q) "Pseudo-automatic number identification" means a feature by which automatic number identification is provided to a public safety answering point of the 10-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

(r) "Public agency" means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services.

(s) "Secretary" means the secretary of administration.

(t) "Service supplier" means any person providing exchange telephone service to any service user in this state.

(u) "Service user" means any person who is provided exchange telephone service or wireless service in this state.

(v) "Subscriber account" means the 10-digit access number assigned to a wireless service customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.

(w) "Tariff rate" means the rate or rates billed by a service supplier and as stated in the service supplier's tariffs, approved by the state corporation commission which represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.

(x) "Valid request" means a request to a wireless carrier for wireless enhanced 911 service, made by a PSAP which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service as determined in accordance with 47 CFR 20.18 (October 1, 2002).

(y) "Wholesaler of prepaid wireless service" means a person who purchases at wholesale wireless service from a wireless carrier for resale as prepaid wireless service.

(z) "Wireless automatic location identification information" means a feature by which information is provided to a public safety answering point identifying the location of a 911 caller within the parameters established by the federal communications commission.

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

(bb) "Wireless enhanced 911 grant fee" means the fee imposed under section 4, and amendments thereto.

(cc) "Wireless enhanced 911 local fee" means the fee imposed under section 10, and amendments thereto.

(dd) "Wireless enhanced 911 service" means a communication service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification and wireless automatic location identification information to a requesting PSAP, as defined in FCC docket 94-102, which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service.

(ee) "Wireless service" means a two-way voice service provided by a wireless carrier.

New Sec. 3. (a) There is hereby established in the state treasury the wireless enhanced 911 grant 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 from fees under section 4, and amendments thereto, or from repayments or fees remitted under section 8 or 10, and amendments thereto;

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

(5) amounts received from any public or private entity for the purposes of the fund.

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

(1) To pay costs of administering the fund, including actual and necessary expenses incurred by members of the advisory board while per-

forming duties required by the wireless enhanced 911 act and costs of any audit performed under section 11, and amendments thereto, but the aggregate amount of all such costs shall not exceed 5% of the moneys credited to the fund; and

(2) to provide grants to eligible municipalities only for necessary and reasonable costs incurred or to be incurred by PSAP's for: (1) Implementation of wireless enhanced 911 service; (2) purchase of equipment and upgrades and modification to equipment used solely to process the data elements of wireless enhanced 911 service; and (3) maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay or equipment not expressly authorized by this act.

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

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

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

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

New Sec. 4. (a) Subject to the provisions of section 18, and amendments thereto, effective July 1, 2004, there is hereby established a wireless enhanced 911 grant fee in the amount of \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas. It shall be the duty of each wireless carrier to collect such fee from the wireless service user and remit such fee to the secretary as provided by section 11, and amendments thereto.

(b) Subject to the provisions of section 18, and amendments thereto, there is hereby established a wireless enhanced 911 grant fee in an amount equal to 1% of the retail price of any prepaid wireless service sold in the state. It shall be the duty of each wholesaler of prepaid wireless service to remit such fee to the secretary as provided by section 11, and amendments thereto.

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

New Sec. 5. The secretary shall administer the provisions of the wireless enhanced 911 act and shall be responsible for administration and management of the fund. The secretary is hereby authorized to:

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

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

(c) adopt rules and regulations necessary for effectuation of the provisions of this act.

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

- (1) One individual representing the Kansas association of counties;
- (2) one individual representing the league of Kansas municipalities;
- (3) one individual representing local law enforcement;
- (4) one individual representing local fire/emergency medical services;
- (5) one individual representing PSAP's in counties having a population of less than 15,000;
- (6) one individual representing PSAP's in counties having a population of 15,000 or more;
- (7) one individual representing the wireless carriers industry;
- (8) one individual representing local exchange service providers; and
- (9) one individual representing the Kansas highway patrol.

(b) The appointments in subsection (a)(1) through (a)(6) of this section shall satisfy the following:

(1) Two shall be individuals from counties having a population of more than 75,000;

(2) two shall be individuals from counties having a population from 15,000 up to 75,000; and

(3) two shall be individuals from counties having a population of less than 15,000.

New Sec. 7. After providing for public comment and review each year, the secretary, in conjunction with the advisory board, shall prepare a plan identifying the intended uses of the moneys available in the fund. The intended use plan shall include, but not be limited to:

(a) The wireless enhanced 911 project priority list;

(b) a description of the short-term and long-term goals and objectives of the fund for the deployment of wireless enhanced 911;

(c) provisions addressing the needs of persons with communication disabilities;

(d) information on the projects to be financed, including a description thereof, the terms of grants to be provided and the municipalities receiving the grants; and

(e) the criteria and method established for the provision of grants to be made from the fund.

New Sec. 8. (a) Eligible municipalities wishing to receive a grant under the wireless enhanced 911 act shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require including, but not limited to, the request for proposals submitted to initiate the deployment process, and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any eligible municipality for the provision of a grant thereto for payment of all or a part of project costs and any eligible municipality may enter into such an agreement and may accept such grant when so authorized by the municipal governing body. The purposes of the grant to be provided, a time frame for implementation, and the amount thereof, which may vary among municipalities, shall be included in the agreements. All such agreements shall include provisions for repayment of the grant if implementation is not completed in accordance with the terms of the agreement.

(c) If a municipality to which a grant is made available under the wireless enhanced 911 act fails to enter into an agreement with the secretary for the provision of such grant in accordance with the requirements of this act, the secretary may make the amount of the grant available for one or more other projects on the priority list.

(d) The secretary shall provide any eligible municipality, upon request, with technical advice and assistance regarding a project or an application for a grant for the payment of all or part of project costs.

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

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

(3) If a PSAP is unable to make a valid request by July 1, 2006, the advisory board may approve not to exceed two one-year extensions of such date to not later than July 1, 2008, if the advisory board determines that: (A) Equipment necessary to receive and utilize the data elements associated with the wireless enhanced 911 service has been ordered by the PSAP but is unavailable; or (B) there is other just cause to extend the date.

New Sec. 9. The secretary shall prepare an annual report describing how the state has met the goals and objectives for the previous year as

identified in the intended use plan prepared under section 7, and amendments thereto. Such report shall include information concerning the progress toward implementation of federal phase II enhanced 911 requirements pursuant to 47 C.F.R. 20.18. The secretary shall provide such report to the governor and the legislature.

New Sec. 10. (a) Effective July 1, 2004, there is hereby imposed a wireless enhanced 911 local fee. Subject to the provisions of section 18, and amendments thereto, the amount of such fee shall be \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas. Such fee shall not be imposed on prepaid wireless service.

(b) Subject to the provisions of section 18, and amendments thereto, the proceeds of the wireless enhanced 911 local fee, and any interest earned on revenue derived from such fee, shall be used only for necessary and reasonable costs incurred or to be incurred by PSAP's for: (1) Implementation of wireless enhanced 911 service; (2) purchase of equipment and upgrades and modification to equipment used solely to process the data elements of wireless enhanced 911 service; and (3) maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay or equipment not expressly authorized by this act.

(c) Each PSAP shall submit to the secretary an annual report accounting for the money received by the PSAP from the wireless enhanced 911 local fee. Such report shall be submitted on a form provided by the secretary.

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

(2) Subject to the provisions of subsection (d)(3), if a PSAP has not submitted to wireless carriers a valid request for wireless enhanced 911 service by July 1, 2006: (A) Such PSAP shall pay to the secretary all moneys from the wireless enhanced 911 local fee which have been or are received by such PSAP; (B) the secretary shall notify the local collection point administrator that the PSAP has not made a valid request when required and that distributions of moneys from the wireless enhanced 911 local fee to the PSAP shall be stopped and that such moneys shall be instead remitted to the secretary until the secretary notifies the local collection point administrator that the PSAP has made a valid request; (C) the PSAP thereafter shall not be eligible to receive moneys from the fund or from distributions by the local collection point administrator until the PSAP has submitted to the secretary evidence satisfactory to the secretary that the PSAP has submitted to wireless carriers a valid request for wireless enhanced 911 service. The secretary shall remit any moneys received from the repayment by the PSAP or from distributions by the local collection point administrator to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wireless enhanced 911 grant fund.

(3) If a PSAP is unable to make a valid request by July 1, 2006, the advisory board may approve not to exceed two one-year extensions of such date to not later than July 1, 2008, if the advisory board determines that: (A) Equipment necessary to receive and utilize the data elements associated with wireless enhanced 911 service has been ordered by the PSAP but is unavailable; or (B) there is other just cause to extend the date.

New Sec. 11. (a) Every billed wireless service user shall be liable for the wireless enhanced 911 grant fee and the wireless enhanced 911 local fee until such fees have been paid to the wireless carrier.

(b) The duty to collect any such fees imposed pursuant to this act shall commence July 1, 2004. Such fees shall be added to and may be stated separately in billings for the subscriber account. If stated separately in billings, the fees shall be labeled "KS E-911 fees."

(c) The wireless carrier shall have no obligation to take any legal action to enforce the collection of the fees imposed by this act. The wireless carrier shall provide annually to the secretary a list of amounts of uncollected wireless enhanced 911 grant fees along with the names and ad-

dresses of those wireless service users which carry a balance that can be determined by the wireless carrier to be nonpayment of such fees. The wireless carrier shall provide annually to the local collection point administrator a list of amounts of uncollected wireless enhanced 911 local fees along with the names and addresses of those wireless service users which carry a balance that can be determined by the wireless carrier to be nonpayment of such fees.

(d) The fees imposed by this act shall be collected insofar as practicable at the same time as, and along with, the charges for wireless service in accordance with regular billing practice of the wireless carrier.

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

(f) The wireless enhanced 911 local fee and the amounts required to be collected therefor are due monthly. The amount of any such fees collected in one month by the wireless carrier shall be remitted to the local collection point administrator not more than 15 days after the close of the calendar month. On or before the 15th day of each calendar month following, a return for the preceding month shall be filed with the local collection point administrator. Such return shall be in such form and shall contain such information as required by the administrator. The wireless carrier required to file the return shall deliver the return together with a remittance of the amount of the fees payable to the local collection point administrator. The wireless carrier shall maintain records of the amount of any such fees collected pursuant to action in accord with this act. Such records shall be maintained for a period of three years from the time the fees are collected.

(g) In the case of prepaid wireless telephone service, the monthly wireless enhanced 911 grant fee shall be remitted to the secretary by the wholesaler of the prepaid wireless service not more than 15 days after the close of the calendar month in which the prepaid wireless service is sold by such wholesaler.

(h) Except as provided by subsection (d) of section 10, and amendments thereto, not later than 30 days after receipt of moneys from wireless carriers pursuant to this section, the local collection point administrator shall distribute such moneys collected from the wireless enhanced 911 local fee to PSAP's based upon primary place of use information provided by wireless carriers. The local collection point administrator may retain an administrative fee of not more than 2% of moneys collected from such fee.

(i) The local collection point administrator shall keep accurate accounts of all receipts and disbursements of moneys from the wireless enhanced 911 local fee. The receipts and disbursements shall be audited yearly by a licensed municipal accountant or certified public accountant and the audit report shall be submitted to the secretary.

New Sec. 12. In 2006, the secretary shall require, and thereafter may require, an audit of any wireless carrier's books and records concerning the collection and remittance of fees pursuant to this act. Any such audit shall be conducted at the expense of the secretary. Information provided by wireless carriers to the secretary or the advisory board pursuant to the wireless enhanced 911 act will be treated as proprietary records which will be withheld from the public upon request of the party submitting such records.

New Sec. 13. The wireless enhanced 911 service described in the wireless enhanced 911 act is within the governmental power and authority of the secretary, local collection point administrator, governing bodies and public agencies. Except as provided by the Kansas tort claims act, in contracting for such service and in providing such service, and except for failure to use ordinary care, or for intentional acts, the secretary, local collection point administrator, each governing body, each public agency,

each wireless carrier and their employees and agents shall not be liable for the payment of damages resulting from the performance of installing, maintaining or providing wireless enhanced 911 service.

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

(b) During the calendar year 2008, the division of post audit shall conduct an audit of the wireless enhanced 911 service system and the landline emergency telephone service system to determine: (1) Whether moneys received by municipalities pursuant to the wireless enhanced 911 act are being used appropriately; (2) the amount of moneys collected pursuant to this act is adequate; (3) the status of wireless enhanced 911 implementation; and (4) the need and level of continued funding of the wireless enhanced 911 service system and the landline emergency telephone service system. The audit shall be in accordance with a scope statement authorized and approved by the legislative post audit committee and shall be conducted in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto. The audit report shall be submitted to the legislature at the commencement of the regular session of the legislature in 2009.

New Sec. 15. Nothing in the wireless enhanced 911 act shall be construed to limit the ability of a wireless carrier from recovering directly from the carrier's customers its costs associated with designing, developing, deploying and maintaining wireless enhanced 911 service and its costs of collection and administration of the fees imposed by this act, whether such costs are itemized on the customer's bill as a surcharge or by any other lawful method.

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

New Sec. 17. Upon notice to a PSAP of an application by a wireless carrier for a waiver of the deadlines of the federal communications commission for implementation of wireless enhanced 911, such PSAP shall notify the secretary of such application.

New Sec. 18. (a) On July 1, 2010:

(1) The wireless enhanced 911 grant fee shall be discontinued, the advisory board shall be abolished, any unobligated balance of the wireless enhanced 911 grant fund shall be paid to the local collection point administrator for distribution to PSAP's based on the population of the municipality or municipalities served by the respective PSAP and the fund shall be abolished.

(2) Within any county which has a population of 125,000 or more, the amount of the tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.25 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee within such jurisdiction shall be an equal amount per month per wireless subscriber account.

(3) Within any county which has a population of less than 125,000 the amount of the tax imposed to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.50 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee shall be an equal amount per month per wireless subscriber account.

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

(b) On and after July 1, 2010, the proceeds of the wireless enhanced 911 local fee shall be used only to pay for costs of emergency telephone service described in K.S.A. 12-5304, and amendments thereto, and expenditures authorized by section 10, and amendments thereto.

Sec. 19. K.S.A. 12-5302 is hereby amended to read as follows: 12-5302. (a) In addition to other powers for the protection of the public

health and welfare, a governing body may provide for the operation of an emergency telephone service and may pay for it by imposing an emergency telephone tax for such service in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. The governing body may do such other acts as are expedient for the protection and preservation of the public health and welfare and are necessary for the operation of the emergency telephone system. The governing body is hereby authorized by ordinance in the case of cities and by resolution in the case of counties to impose such tax in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. *Subject to the provisions of section 18, and amendments thereto*, the amount of such tax shall not exceed \$.75 per month per exchange access line or its equivalent.

(b) Within 60 days of the publication of a resolution by a county adopted pursuant to subsection (a) there may be filed with the county election officer of the county a petition signed by not less than 5% of the registered voters of the county, and within 60 days of publication of an ordinance adopted pursuant to subsection (a) there may be filed with the county election officer of the county in which the city is located a petition signed by not less than 5% of the registered voters of the city, in either such case requesting that the question of the installation and operation of emergency telephone service and imposition of tax therefor be submitted to the qualified voters of the county. Upon determination of the sufficiency of such petition and certification thereof by the county election officer, the proposition shall be submitted to the qualified voters of the county or city as the case may be at the next primary or general election of county officers following by not less than 60 days the certification of such petition. If a majority of the votes cast at such election are for the installation and operation of emergency telephone service and imposition of tax therefor, or if no protest petition is filed within the time hereinbefore prescribed, the governing body may provide for the installation and operation of such service and impose such tax. If a tax is imposed on the effective date of this act or thereafter, any proposed increase in the amount of the tax shall be subject to the protest petition provided in this subsection. The proceeds of the tax shall be utilized to pay for the operation of emergency telephone service as set forth in subsection (b) of K.S.A. 12-5304, and amendments thereto, and may be imposed at any time subsequent to execution of a contract with the provider of such service at the discretion of the governing body. The collection of such tax may begin at the time determined to be necessary to generate revenue in an amount necessary to pay the nonrecurring expenses of establishing the emergency telephone service. Any interest earned on revenue derived from such tax shall be used to pay the expenses authorized by K.S.A. 12-5304, and amendments thereto. Such tax shall not be imposed until after the expiration of the protest period or until after approved at an election if a sufficient protest petition is filed.

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

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

(e) Every billed service user shall be liable for any tax imposed under this ~~act~~ *section* until it has been paid to the service supplier. Wireless service ~~users~~ shall be exempt from the emergency telephone tax *under this section but shall be subject to the wireless enhanced 911 grant fee imposed under section 4, and amendments thereto, and the wireless enhanced 911 local fee imposed under section 10, and amendments thereto.*

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

(g) The service supplier shall have no obligation to take any legal action to enforce the collection of any tax imposed under authority of this ~~act~~ *section*. The service supplier shall provide annually the governing body with a list of amounts uncollected along with the names and addresses of

those service users which carry a balance that can be determined by the service supplier to be nonpayment of any tax imposed under authority of this ~~act~~ section.

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

Sec. 20. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260

through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) *Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

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

Sec. 22. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 14, 2004.

Published in the *Kansas Register* April 22, 2004.
