

SENATE BILL No. 284

By Committee on Utilities

1-22

1 AN ACT concerning 911 emergency services; relating to the 911
2 coordinating council, composition, contracting authority, expenses;
3 amending K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367, ~~12-5368, 12-~~
4 ~~5375~~ and 12-5377 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2013 Supp. 12-5363 is hereby amended to read as
8 follows: 12-5363. As used in the Kansas 911 act:

9 (a) "Consumer" means a person who purchases prepaid wireless
10 service in a retail transaction.

11 (b) "Department" means the Kansas department of revenue.

12 (c) "Enhanced 911 service" or "E-911 service" means an emergency
13 telephone service that generally may provide, but is not limited to,
14 selective routing, automatic number identification and automatic location
15 identification features.

16 (d) "Exchange telecommunications service" means the service that
17 provides local telecommunications exchange access to a service user.

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

20 (f) "Local collection point administrator" or "LCPA" means, on the
21 effective date of this act, the statewide association of cities established by
22 K.S.A. 12-1610e, and amendments thereto, and the statewide association
23 of counties established by K.S.A. 19-2690, and amendments thereto. After
24 January 1, 2012, "local collection point administrator" means the person
25 designated by the 911 coordinating council to serve as the local collection
26 point administrator to collect and distribute 911 fees and 911 state grant
27 fund moneys.

28 (g) "Multi-line telephone system" means a system comprised of
29 common control units, telephones and control hardware and software
30 providing local telephone service to multiple end-use customers that may
31 include VoIP service and network and premises based systems such as
32 centrex, private branch exchange and hybrid key telephone systems.

33 (h) "Next generation 911" means 911 service that enables PSAPs to
34 receive Enhanced 911 service calls and emergency calls from Internet
35 Protocol (IP) based technologies and applications that may include text
36 messaging, image, video and data information from callers.

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

8 (j) "Prepaid wireless service" means a wireless telecommunications
9 service that allows a caller to dial 911 to access the 911 system, which
10 service must be paid for in advance and is sold in predetermined units or
11 dollars of which the number declines with use in a 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. *A provider may also*
18 *be a 911 system operator.*

19 (m) "PSAP" means a public safety answering point operated by a city
20 or county.

21 (n) "Retail transaction" means the purchase of prepaid wireless
22 service from a seller for any purpose other than resale, not including the
23 use, storage or consumption of such services.

24 (o) "Seller" means a person who sells prepaid wireless service to
25 another person.

26 (p) "Service user" means any person who is provided exchange
27 telecommunications service, wireless telecommunications service, VoIP
28 service, prepaid wireless service or any other service capable of contacting
29 a PSAP.

30 (q) "Subscriber account" means the 10-digit access number assigned
31 to a service user by a provider for the purpose of billing a service user up
32 to the maximum capacity of the simultaneous outbound calling capability
33 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 mobile
39 radio service as defined by 47 C.F.R. § 20.3 as in effect on the effective
40 date of this act.

41 (u) *"911 call" means any electronic request for emergency response,*
42 *presented by means of wireline, wireless, VoIP or telecommunications*
43 *device for the deaf (TDD) technology, text message or any other*

1 *technology by which a service user initiates an immediate information*
2 *interchange or conversation with a PSAP.*

3 (v) *"911 system operator" means any entity that accepts 911 calls*
4 *from providers, processes those calls and presents those calls to the*
5 *appropriate PSAP. A "911 system operator" may also be a provider.*

6 Sec. 2. K.S.A. 2013 Supp. 12-5364 is hereby amended to read as
7 follows: 12-5364. (a) (1) There is hereby created the 911 coordinating
8 council which shall monitor the delivery of 911 services, develop
9 strategies for future enhancements to the 911 system and distribute
10 available grant funds to PSAPs. In as much as possible, the council shall
11 include individuals with technical expertise regarding 911 systems,
12 internet technology and GIS technology.

13 (2) The 911 coordinating council shall consist of ~~12~~ 13 voting
14 members to be appointed by the governor: Two members representing
15 information technology personnel from government units; one member
16 representing ~~a law enforcement officer~~ *the Kansas sheriff's association;*
17 *one member representing the Kansas association of chiefs of police;* one
18 member representing a fire chief; one member recommended by the
19 adjutant general; one member recommended by the Kansas emergency
20 medical services board; one member recommended by the Kansas
21 commission for the deaf and hard of hearing; two members representing
22 PSAPs located in counties with less than 75,000 in population; two
23 members representing PSAPs located in counties with greater than 75,000
24 in population; and one member representing PSAPs without regard to size.
25 At least two of the members representing PSAPs shall be administrators of
26 a PSAP or have extensive prior 911 experience in Kansas.

27 (3) Other voting members of the 911 coordinating council shall
28 include: One member of the Kansas house of representatives as appointed
29 by the speaker of the house; one member of the Kansas house of
30 representatives as appointed by the minority leader of the house; one
31 member of the Kansas senate as appointed by the senate president; and one
32 member of the Kansas senate as appointed by the senate minority leader.

33 (4) The 911 coordinating council shall also include nonvoting
34 members to be appointed by the governor: One member representing rural
35 telecommunications companies recommended by the Kansas rural
36 independent telephone companies; one member representing incumbent
37 local exchange carriers with over 50,000 access lines; one member
38 representing large wireless providers; one member representing VoIP
39 providers; one member recommended by the league of Kansas
40 municipalities; one member recommended by the Kansas association of
41 counties; one member recommended by the Kansas geographic
42 information systems policy board; ~~one member recommended by KAN-~~
43 ~~ED~~; one member recommended by the Kansas ~~division~~ *office* of

1 information ~~systems and communications~~ *technology services*; and one
2 member, a Kansas resident, recommended by the Mid-America regional
3 council.

4 (b) (1) Except as provided in subsection (b)(2) *and (b)(3)*, the terms
5 of office for voting members of the 911 coordinating council shall
6 commence on the effective date of this act and shall be subject to
7 reappointment every three years. No voting member shall serve longer
8 than two successive three-year terms. A voting member appointed as a
9 replacement for another voting member may finish the term of the
10 predecessor and may serve two additional successive three-year terms.

11 (2) The following members, whose terms began on the effective date
12 of this act, shall serve initial terms as follows:

13 (A) One member representing information technology personnel from
14 government units, one member recommended by the adjutant general, one
15 member representing PSAPs located in counties with less than 75,000 in
16 population and one member representing PSAPs located in counties with
17 greater than 75,000 in population shall serve a term of two years;

18 (B) one member representing information technology personnel from
19 government units, one member recommended by the Kansas emergency
20 medical services board, one member representing PSAPs located in
21 counties with less than 75,000 in population and one member representing
22 PSAPs without regard to size shall serve a term of three years; and

23 (C) one member representing a fire chief, one member recommended
24 by the Kansas commission for the deaf and hard of hearing, one member
25 representing ~~a law enforcement officer~~ *the Kansas association of chiefs of*
26 *police* and one member representing PSAPs located in counties with
27 greater than 75,000 in population shall serve a term of four years.

28 (3) *The initial term for one member representing the Kansas sheriff's*
29 *association shall begin on July 1, 2014, and be for a period of three years.*

30 (4) The terms of members specified in this subsection shall expire on
31 June 30 in the last year of such member's term.

32 (c) (1) The governor shall select the chair of the 911 coordinating
33 council, who shall serve at the pleasure of the governor and have extensive
34 prior 911 experience in Kansas.

35 (2) The chair shall serve as the coordinator of E-911 services and next
36 generation 911 services in the state, implement statewide 911 planning,
37 have the authority to sign all certifications required under 47 C.F.R. part
38 400 and administer the 911 federal grant fund and 911 state maintenance
39 fund. The chair shall serve subject to the direction of the council and
40 ensure that policies adopted by the council are carried out. The chair shall
41 serve as the liaison between the council and the LCPA. The chair shall
42 preside over all meetings of the council and assist the council in
43 effectuating the provisions of this act.

1 ~~Upon the advice and consent of the legislative coordinating~~
2 ~~council,~~ The 911 coordinating council, *by an affirmative vote of nine*
3 *voting members,* shall select the local collection point administrator,
4 pursuant to K.S.A. 2013 Supp. 12-5367, and amendments thereto, to
5 collect 911 fees and to distribute such fees to PSAPs and to distribute 911
6 state grant fund moneys as directed by the council. The council shall adopt
7 rules and regulations for the terms of the contract with the LCPA. All
8 contract terms and conditions shall satisfy all contract requirements as
9 established by the secretary of administration. ~~The council may, pursuant~~
10 ~~to rules and regulations, increase the duration of the contract with the~~
11 ~~LCPA to a maximum of three years.~~ The council shall determine the
12 compensation of the LCPA who, ~~after January 1, 2012,~~ shall provide the
13 council with any staffing necessary in carrying out the business of the
14 council or effectuating the provisions of this act. ~~Prior to January 1, 2012,~~
15 ~~the department of administration shall provide the council with any~~
16 ~~staffing necessary in carrying out the business of the council or~~
17 ~~effectuating the provisions of this act.~~ The moneys used to reimburse these
18 expenses shall be paid from the 911 state grant fund, pursuant to
19 subsection (i).

20 (e) The 911 coordinating council is hereby authorized to adopt rules
21 and regulations necessary to effectuate the provisions of this act, including,
22 but not limited to, creating a uniform reporting form designating how
23 moneys, including 911 fees, have been spent by the PSAPs, requiring
24 service providers to notify the council pursuant to subsection (j), setting
25 standards for coordinating and purchasing equipment, recommending
26 standards for training of PSAP personnel and assessing civil penalties. The
27 chair of the council shall work with the council to develop rules and
28 regulations necessary for the distribution of moneys in the 911 federal
29 grant fund. The council shall work with the chair to carry out the
30 provisions of this act. Rules and regulations necessary to begin
31 administration of this act shall be adopted by December 31, 2011.

32 (f) The council may, pursuant to rules and regulations, raise or lower
33 the 911 fee upon a finding based on information submitted on the uniform
34 reporting forms, that moneys generated by such fee are in excess of or
35 below the costs required to operate PSAPs in the state. The council shall
36 not set the 911 fee above \$.60.

37 (g) The council may appoint subcommittees as necessary to
38 administer grants, oversee collection and distribution of moneys by the
39 LCPA, develop technology standards, develop training recommendations
40 and other issues as deemed necessary by the council. Subcommittees, if
41 appointed, shall include members of the council and other persons as
42 needed.

43 (h) The council may reimburse independent contractors or state

1 agencies for expenses incurred in carrying out the business of the council,
2 including salaries, that are directly attributable to effectuating the
3 provisions of this act. The moneys used to reimburse these expenses shall
4 be paid from the 911 state grant fund, pursuant to subsection (i).

5 (i) All expenses related to the council shall be paid from the 911 state
6 grant fund. No more than ~~4.5~~ 2.5% of the total receipts from providers and
7 the department received by the LCPA shall be used to pay for such
8 expenses. Members of the council *and other persons appointed to*
9 *subcommittees by the council* may receive reimbursement for meals and
10 travel expenses, but shall serve without other compensation with the
11 exception of legislative members.

12 (j) Every provider shall submit contact information for the provider to
13 the council prior to January 1, 2012. Any provider that has not previously
14 provided wireless telecommunications service in this state shall submit
15 contact information for the provider to the council within three months of
16 first offering wireless telecommunications services in this state.

17 (k) Each PSAP shall file with the council, by March 1, 2012, and
18 every March 1 thereafter, a report demonstrating how such PSAP has spent
19 the moneys earned from the 911 fee during the preceding calendar year.
20 The council shall designate the content and form of such report.

21 (l) The council, upon a finding that a provider has violated any
22 provision of this act, may impose a civil penalty. No civil penalty shall be
23 imposed pursuant to this section except upon the written order of the
24 council. Such order shall state the violation, the penalty to be imposed and
25 the right of such person to appeal to a hearing before the council. Any such
26 person may, within 15 days after service of the order, make a written
27 request to the council for a hearing thereon. Hearings under this subsection
28 shall be conducted in accordance with the provisions of the Kansas
29 administrative procedure act.

30 (m) Any action of the council pursuant to subsection (l) is subject to
31 review in accordance with the Kansas judicial review act.

32 (n) Any civil penalty recovered pursuant to this section shall be
33 transferred to the LCPA for deposit in the 911 state grant fund.

34 (o) As long as the provider is working in good faith to comply with
35 the provisions of this act, no civil penalty shall be imposed prior to
36 January 1, 2013.

37 (p) The 911 coordinating council shall make an annual report, to
38 include a detailed description of all expenditures made from 911 fees
39 received by the PSAPs, to the house committee on ~~energy and utilities~~ *and*
40 *telecommunications* and the senate committee on utilities.

41 Sec. 3. K.S.A. 2013 Supp. 12-5367 is hereby amended to read as
42 follows: 12-5367. ~~Upon the advice and consent of the legislative~~
43 ~~coordinating council~~; The 911 coordinating council, *by an affirmative vote*

1 of nine voting members, shall select the local collection point
2 administrator. In selecting the LCPA, the council shall contract with the
3 LCPA for services for no longer than two years, *however, the council may,*
4 *by an affirmative vote of nine voting members, extend such contract for up*
5 *to two additional years. **The 911 coordinating council shall receive the***
6 ***advice and consent of the legislative coordinating council in selecting an***
7 ***LCPA if the entity to be designated as the LCPA is different than the***
8 ***previous entity designated as the LCPA.*** The 911 coordinating council ~~and~~
9 the legislative coordinating council shall annually review the designation
10 of the LCPA and the contract with the LCPA for services. The LCPA shall
11 be subject to the requirements of the Kansas open meetings act, the Kansas
12 open records act and shall treat all moneys received as public funds
13 pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and
14 amendments thereto. Notwithstanding any other provision of law to the
15 contrary, the LCPA shall not be considered a state agency.

16 ~~Sec. 4.—K.S.A. 2013 Supp. 12-5368 is hereby amended to read as~~
17 ~~follows: 12-5368. (a) Upon the advice and consent of the 911 coordinating~~
18 ~~council, the LCPA shall establish the 911 state fund and the 911 state grant~~
19 ~~fund which shall not be part of the state treasury. On or after the effective~~
20 ~~date of this section, the secretary of administration shall certify all~~
21 ~~unobligated funds remaining in the wireless enhanced 911 grant fund as~~
22 ~~having originated as either federal grant moneys or 911 fee moneys. All~~
23 ~~such moneys originating from 911 fees, and any interest accrued on such~~
24 ~~fees, shall be paid to the LCPA for deposit in the 911 state grant fund. All~~
25 ~~unobligated federal moneys, and any interest accrued on such moneys,~~
26 ~~shall be transferred to the 911 federal grant fund.~~

27 ~~(b) The council shall be responsible for ensuring that the 911 state~~
28 ~~grant fund and any interest earned on money credited to the fund is only~~
29 ~~expended for the following purposes: (1) Projects involving the~~
30 ~~development and implementation of next generation 911 services; (2) costs~~
31 ~~associated with PSAP consolidation or cost-sharing projects; (3) expenses~~
32 ~~related to the 911 coordinating council; (4) costs of audits conducted~~
33 ~~pursuant to K.S.A. 2013 Supp. 12-5377, and amendments thereto; and (5)~~
34 ~~other costs pursuant to K.S.A. 2013 Supp. 12-5375, and amendments~~
35 ~~thereto.~~

36 ~~(c) The council shall develop criteria for eligible purchases and for~~
37 ~~grant applicants and make the final determination as to the distribution of~~
38 ~~grant funds. Such criteria shall promote the procurement of equipment that~~
39 ~~meets open architecture and national technical standards. Distribution of~~
40 ~~grant funds shall not include expenditures to procure, maintain or upgrade~~
41 ~~subscriber radio equipment.~~

42 ~~(d) The LCPA shall be authorized to maintain an action to collect any~~
43 ~~funds owed by any providers in the district court in the county of the~~

1 registered office of such provider or, if such provider does not have a
2 registered office in the state, such an action may be maintained in the
3 county where such provider's principal office is located. If such provider
4 has no principal office in the state, such an action may be maintained in
5 the district court of any county in which such provider provides service.

6 (e) ~~This section shall take effect on and after January 1, 2012.~~

7 Sec. 5. ~~K.S.A. 2013 Supp. 12-5375 is hereby amended to read as~~
8 ~~follows: 12-5375. (a) The proceeds of the 911 fees imposed pursuant to~~
9 ~~this act, and any interest earned on revenue derived from such fee, shall be~~
10 ~~used only for necessary and reasonable costs incurred or to be incurred by~~
11 ~~PSAPs for: (1) Implementation of 911 services; (2) purchase of 911~~
12 ~~equipment and upgrades; (3) maintenance and license fees for 911~~
13 ~~equipment; (4) training of personnel; (5) monthly recurring charges billed~~
14 ~~by service suppliers; (6) installation, service establishment and~~
15 ~~nonrecurring start-up charges billed by the service supplier; (7) charges for~~
16 ~~capital improvements and equipment or other physical enhancements to~~
17 ~~the 911 system; or (8) the original acquisition and installation of road signs~~
18 ~~designed to aid in the delivery of emergency service. Such costs shall not~~
19 ~~include expenditures to lease, construct, expand, acquire, remodel,~~
20 ~~renovate, repair, furnish or make improvements to buildings or similar~~
21 ~~facilities. Such costs shall also not include expenditures to purchase~~
22 ~~subscriber radio equipment.~~

23 (b) ~~If the 911 coordinating council, based upon information obtained~~
24 ~~from the PSAP reports or an audit of the PSAPs, determines that any PSAP~~
25 ~~has used any 911 fees for any purpose other than those authorized in this~~
26 ~~act, such PSAP shall repay all such funds used for any unauthorized~~
27 ~~purposes plus 10% to the LCPA for deposit in the 911 state grant fund. No~~
28 ~~such repayment of 911 fees shall be imposed pursuant to this section~~
29 ~~except upon the written order of the council. Such order shall state the~~
30 ~~unauthorized purposes for which the funds were used, the amount of funds~~
31 ~~to be repayed and the right of such PSAP to appeal to a hearing before the~~
32 ~~council. Any such PSAP may, within 15 days after service of the order,~~
33 ~~make a written request to the council for a hearing thereon. Hearings under~~
34 ~~this subsection shall be conducted in accordance with the provisions of the~~
35 ~~Kansas administrative procedure act.~~

36 (c) ~~Any action of the council pursuant to subsection (b) is subject to~~
37 ~~review in accordance with the Kansas judicial review act.~~

38 (d) ~~As long as the PSAP is working in good faith to use the 911 fees~~
39 ~~for expenditures authorized by this act, no repayment of 911 fees shall be~~
40 ~~required prior to January 1, 2013.~~

41 (e) ~~This section shall take effect on and after January 1, 2012.~~

42 Sec. 6. ~~4. K.S.A. 2013 Supp. 12-5377 is hereby amended to read as~~
43 ~~follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be~~

1 audited yearly by a licensed municipal accountant or certified public
2 accountant.

3 (b) The LCPA may require an audit of any provider's books and
4 records concerning the collection and remittance of fees pursuant to this
5 act. The cost of any such audit shall be paid from the 911 state grant fund.

6 (c) On or before December 31, 2013, and at least once every three
7 years thereafter, the division of post audit shall conduct an audit of the 911
8 system to determine: (1) Whether the moneys received by PSAPs pursuant
9 to this act are being used appropriately; (2) whether the amount of moneys
10 collected pursuant to this act is adequate; and (3) the status of 911 service
11 implementation. The auditor to conduct such audit shall be specified in
12 accordance with K.S.A. 46-1122, and amendments thereto. The post
13 auditor shall compute the reasonably anticipated cost of providing audits
14 pursuant to this subsection, subject to review and approval by the contract
15 audit committee established by K.S.A. 46-1120, and amendments thereto.
16 Upon such approval, the 911 state grant fund shall reimburse the division
17 of post audit for the amount approved by the contract audit committee. The
18 audit report shall be submitted to the 911 coordinating council, the LCPA,
19 the house ~~energy and utilities~~ committee *on utilities and*
20 *telecommunications* and the senate ~~utilities~~ committee *on utilities*.

21 (d) The legislature shall review this act at the regular 2014 legislative
22 session and at the regular legislative session every five years thereafter.

23 (e) This section shall take effect on and after January 1, 2012.

24 ~~Sec.-7. 5. K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367, 12-5368,~~
25 ~~12-5375 and 12-5377 are hereby repealed.~~

26 ~~Sec.-8. 6. This act shall take effect and be in force from and after its~~
27 publication in the statute book.