

SENATE BILL No. 284

AN ACT concerning 911 emergency services; relating to the 911 coordinating council, composition, contracting authority, expenses; amending K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367 and 12-5377 and repealing the existing sections.

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

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

(a) “Consumer” means a person who purchases prepaid wireless service in a retail transaction.

(b) “Department” means the Kansas department of revenue.

(c) “Enhanced 911 service” or “E-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.

(d) “Exchange telecommunications service” means the service that provides local telecommunications exchange access to a service user.

(e) “Governing body” means the board of county commissioners of a county or the governing body of a city.

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

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

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

(i) “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.

(j) “Prepaid wireless service” means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(k) “Place of primary use” has the meaning provided in the mobile telecommunications act as defined by 4 U.S.C. § 116 et seq., as in effect on the effective date of this act.

(l) “Provider” means any person providing exchange telecommunications service, wireless telecommunications service, VoIP service or other service capable of contacting a PSAP. *A provider may also be a 911 system operator.*

(m) “PSAP” means a public safety answering point operated by a city or county.

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

(o) “Seller” means a person who sells prepaid wireless service to another person.

(p) “Service user” means any person who is provided exchange telecommunications service, wireless telecommunications service, VoIP service, prepaid wireless service or any other service capable of contacting a PSAP.

(q) “Subscriber account” means the 10-digit access number assigned to a service user by a provider for the purpose of billing a service user up to the maximum capacity of the simultaneous outbound calling capability of a multi-line telephone system or equivalent service.

(r) “Subscriber radio equipment” means mobile and portable radio

equipment installed in vehicles or carried by persons for voice communication with a radio system.

(s) “VoIP service” means voice over internet protocol.

(t) “Wireless telecommunications service” means commercial mobile radio service as defined by 47 C.F.R. § 20.3 as in effect on the effective date of this act.

(u) “911 call” means any electronic request for emergency response, presented by means of wireline, wireless, VoIP or telecommunications device for the deaf (TDD) technology, text message or any other technology by which a service user initiates an immediate information interchange or conversation with a PSAP.

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

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

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

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

(4) The 911 coordinating council shall also include nonvoting members to be appointed by the governor: One member representing rural telecommunications companies recommended by the Kansas rural independent telephone companies; one member representing incumbent local exchange carriers with over 50,000 access lines; one member representing large wireless providers; one member representing VoIP providers; one member recommended by the league of Kansas municipalities; one member recommended by the Kansas association of counties; one member recommended by the Kansas geographic information systems policy board; ~~one member recommended by KAN-ED~~; one member recommended by the Kansas ~~division~~ office of information systems and communications technology services; and one member, a Kansas resident, recommended by the Mid-America regional council.

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

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

(A) One member representing information technology personnel from government units, one member recommended by the adjutant general, one member representing PSAPs located in counties with less than 75,000 in population and one member representing PSAPs located in

counties with greater than 75,000 in population shall serve a term of two years;

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

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

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

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

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

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

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

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

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

(g) The council may appoint subcommittees as necessary to administer grants, oversee collection and distribution of moneys by the LCPA, develop technology standards, develop training recommendations and other issues as deemed necessary by the council. Subcommittees, if ap-

pointed, shall include members of the council and other persons as needed.

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

(i) All expenses related to the council shall be paid from the 911 state grant fund. No more than ~~1.5~~ 2.5% of the total receipts from providers and the department received by the LCPA shall be used to pay for such expenses. Members of the council *and other persons appointed to subcommittees by the council* may receive reimbursement for meals and travel expenses, but shall serve without other compensation with the exception of legislative members.

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

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

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

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

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

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

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

Sec. 3. K.S.A. 2013 Supp. 12-5367 is hereby amended to read as follows: 12-5367. ~~Upon the advice and consent of the legislative coordinating council,~~ The 911 coordinating council, *by an affirmative vote of nine voting members*, shall select the local collection point administrator. In selecting the LCPA, the council shall contract with the LCPA for services for no longer than two years, *however, the council may, by an affirmative vote of nine voting members, extend such contract for up to two additional years.* *The 911 coordinating council shall receive the advice and consent of the legislative coordinating council in selecting an LCPA if the entity to be designated as the LCPA is different than the previous entity designated as the LCPA.* The 911 coordinating council ~~and the legislative coordinating council~~ shall annually review the designation of the LCPA and the contract with the LCPA for services. The LCPA shall be subject to the requirements of the Kansas open meetings act, the Kansas open records act and shall treat all moneys received as public funds pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. Notwithstanding any other provision of law to the contrary, the LCPA shall not be considered a state agency.

Sec. 4. K.S.A. 2013 Supp. 12-5377 is hereby amended to read as follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be audited yearly by a licensed municipal accountant or certified public accountant.

(b) The LCPA may require an audit of any provider's books and records concerning the collection and remittance of fees pursuant to this

act. The cost of any such audit shall be paid from the 911 state grant fund.

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

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

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

Sec. 5. K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367 and 12-5377 are hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.