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**MEMORANDUM**

To: Chairman Masterson and Members of the Committee on Utilities  
From: Matt Sterling, Assistant Revisor of Statutes  
Date: March 13, 2019  
RE: House Bill 2084

House Bill 2084 would make amendments to the Kansas 911 Act found in K.S.A. 12-5362 through K.S.A. 12-5381. This memorandum provides a summary of such amendments.

*Membership of 911 Coordinating Council*

Thirteen of seventeen voting members of the 911 Coordinating Council (Council) are appointed by the governor. One of such governor's appointments is currently required to represent PSAPs without regard to size. HB 2084 would change this provision to provide that such appointment would be required represent the Kansas Chapter of the Association of Public Safety Communications Officials.

Current law also provides that certain nonvoting members are to be appointed by the governor. HB 2084 would add two such non-voting members who must represent non-traditional PSAPs, such as a PSAP operated by a university, tribal government or state or federal government, with one of such members representing tribal government.

*Fees*

HB 2084 would increase the monthly 911 fee that is imposed upon subscriber accounts to \$.82. Under current law, the fee was set at \$.53, but the Council has exercised their statutory authority to increase the fee to \$.60, which is what the current fee is set at. The Council would maintain its statutory authority to lower the fee should the moneys produced by such fees exceed the costs required to operate the PSAPs.

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The bill would also increase the prepaid wireless 911 fee from the current 1.20% per retail purchase of prepaid wireless service to 2.06% per transaction. If the Council reduces the 911 fee, the prepaid wireless 911 fee must also be reduced by a proportionate amount.

*Funds Administered by the 911 Coordinating Council*

Current law provides for a 911 state fund and 911 state grant fund to be administered by the Council. HB 2084 would provide specific purposes for these funds in statute. The 911 state fund would be for the collection and distribution of 911 fees and the 911 state grant fund would be for grants to PSAPs.

HB 2084 would require the Local Collection Point Administrator (LCPA) to establish a new fund called the state operations fund to be used for administrative costs of the Council and for deployment and maintenance of the statewide NG911 system. HB 2084 would require the LCPA to withhold \$0.23 from every 911 fee and to deposit such amount into the 911 state operations fund for the deployment and maintenance of the statewide NG911 system. If such withholding exceeds 15% of the total receipts of the LCPA over the prior three years, any funds withheld in excess of such 15% would be required to be deposited into the 911 state grant fund for distribution to the PSAPs.

Current law requires that expenses related to the Council are to be paid from the 911 state grant fund and that no more than 2.5% of the total receipts shall be used for such expenses. HB 2084 would amend current law to provide that all expenses related to the Council would instead be paid from the 911 state operations fund and that the cap would be 2% and would apply to the administrative expenses of the Council.

Current law provides that the proceeds from 911 fees are to be deposited into the 911 state grant fund. Under HB 2084, moneys generated from 911 fees would instead be deposited in the 911 state fund or the 911 operations fund.

Current law provides that the proceeds from the prepaid wireless 911 fee are to be deposited into the 911 state grant fund. Additionally, collection of prepaid wireless 911 fees over \$2 million are required to be distributed back to county PSAPs. HB 2084 would require that prepaid wireless 911 fees be deposited into the state operations fund and that collection of such fees in excess of \$3 million would be distributed to county PSAPs.

*PSAP Annual Report Requirements*

Currently, PSAPs are required to file an annual report with the Council demonstrating how PSAPs spent grant money in the preceding year. HB 2084 would provide that, should a PSAP fail to file such annual report after notice of the failure is provided, the council would be required to withhold 10% of each subsequent distribution to such PSAP until the annual report is filed by the PSAP.

*PSAP Distributions*

Current law provides that PSAP distribution are base upon the percentage of fees collected by users in the PSAP county and the size of such county. HB 2084 would provide a distribution table to clarify how such distributions are to be made to PSAPs, no change in the distribution method would be made by such table. However, HB 2084 does provide that if the balance in the 911 state grant fund was less than \$2,000,000, then the LCPA would withhold \$.01 from every 911 fee collected and deposit it in the state grant fund instead of distributing it to the PSAPs. The bill would also increase the minimum PSAP county distribution from \$50,000 to \$60,000.

*PSAP Expenditures*

Current law both authorizes and restricts PSAP expenditures of 911 fee moneys and authorizes the council to monitor such expenditures through audits and annual reports. If an expenditure is determined to be an unauthorized expenditure, the PSAP is required to reimburse the LCPA for the unauthorized expenditure. HB 2084 would require the council to establish a process for a PSAP to be able to obtain pre-approval of an expenditure.

HB 2084 would also require the council to appoint a committee to review PSAP expenditures on an annual basis. If the committee requests that an expenditure be refunded, the PSAP could request a review of the committee decision before the 911 coordinating council. Additionally, under HB 2084, if the council determines that the PSAP intentionally expended

money for a purpose that was clearly established as an unauthorized expenditure, the council would be authorized to require a PSAP to pay the lesser of \$500 or 10% of such expenditure.

Currently, PSAPs are prohibited from expending 911 fee moneys on the purchase of subscriber radio equipment. HB 2084 would further prohibit 911 fee expenditures on radio equipment by prohibiting the expenditure of such funds for the procurement, maintenance or upgrading of such equipment.

#### *Rules and Regulations*

The 911 Coordinating Council has authority under current law to adopt certain rules and regulation to carry out the provisions of the Kansas 911 Act. HB 2084 would authorize the 911 Coordinating Council to adopt additional rules and regulations to establish training standards and programs related to the NG911 hosted solution and to establish policies for GIS data. HB 2084 would prohibit the council from adopting rules and regulations that would create a mandatory certification program of PSAP operations or emergency communication personnel.

#### *PSAP GIS Data*

HB 2084 would authorize the council to review and update GIS data of a PSAP if such PSAP does not update GIS data on an annual basis. The council would also be authorized to assess the costs of updating such data upon the PSAP.

#### *LCPA, PSAP, and Provider Liability*

Under current law, except for failure to use ordinary care or for intentional acts, the LCPA and the providers and their employees and agents are not liable for damages resulting from the failure of any transmission to an emergency communication service or for damages resulting from the performance of installing, maintaining or providing 911 service. HB 2084 would change this immunity from liability to also apply to the PSAPs and suppliers and contractors of providers and would be for actions or inactions that do not constitute gross negligence or willful and wanton misconduct.

#### *Counties*

Under HB 2084, counties may not exempt themselves from the Kansas 911 act.