

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2690

As Amended by Senate Committee on Utilities

Brief*

HB 2690, as amended, would allow counties or governing bodies of cities to contract with another governing body of a Public Safety Answering Point (PSAP) for consolidation of the provision of 911 services, make changes to how 911 is governed within the state by replacing the current 911 Coordinating Council (Council) with a new State 911 Board, change how the 911 fees are allowed to be used, and require 911 fees collected from phone bills and prepaid wireless service to be transferred to the state treasury.

The bill would also make technical changes.

The bill would be in effect upon publication in the *Kansas Register*.

County PSAP Consolidation (Sections 12, 23, 26)

The bill would authorize, beginning on July 1, 2024, any PSAP or governing body of a PSAP to contract with another governing body of a PSAP to provide 911 PSAP services, develop strategies for future enhancements to the 911 system, and allow for the distributions of 911 fees to counties with consolidated 911 services.

Additionally, the bill would require the governing bodies of PSAPS with consolidated 911 services to:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Comply with any rules and regulations requiring how moneys have been spent;
- Maintain geographic information system (GIS) data;
- Report annually to the Council;
- Comply with penalties for noncompliance with annual reporting requirements;
- Comply with requirements for expenditures, including any established purchase pre-approval process; and
- Participate in an annual expenditure review process.

Establishment of 911 Board and Transition, and Sunset of 911 Council (Sections 1, 2, 3, 4, 9, 10, 15, 17, 18, 21, 27, 29)

The bill would abolish, on and after July 1, 2025, the existing Council and establish the State 911 Board (Board).

The composition of the Board would be nearly identical to the current composition of the Council, with the exception that the one member recommended by the Kansas League of Municipalities and the one member recommended by the Kansas Association of Counties would become voting members. Additionally, the bill would change the affiliation of the member representing a fire chief to a representative of the Kansas State Association of Fire Chiefs.

The bill would authorize the Governor to select the Board's Chairperson, who would be required to have extensive 911 experience in the state and ensure policies adopted by the Board are carried out.

Initial Board Membership

On and after July 1, 2025, the bill would deem the appointed members currently serving on the Council as appointed members of the Board, and their term would expire at the same time as the appointed term on the Council.

Future Board Membership

Terms for new appointments would start upon the appointment and would last for three years and until a successor is appointed. Terms for voting members would be limited to two consecutive three-year terms, and completing the term of a predecessor would not preclude a member from serving two full terms. Further, terms would end on June 30th in the year in which the term is set to expire. There would be an exception for the terms of legislative members serving on the Board to expire commensurate with their legislative term.

911 Board Powers, Duties, and Responsibilities

The bill would require the Board to carry out the following responsibilities:

- Coordinate E-911 services and next generation 911 (NG911) services in the state;
- Implement statewide 911 communications planning;
- Monitor the delivery of 911 communications services in the state;
- Develop strategies for future enhancements to the 911 system;
- Administer and oversee grants to PSAPs;
- Develop technology standards;

- Establish minimum training requirements for PSAP personnel, GIS technicians, and information technology technicians with respect to the statewide NG911 call handling system technology to ensure public safety across Kansas;
- Employ a full-time executive director who must:
 - Be the administrative officer of the board;
 - Be an unclassified employee under the Kansas Civil Service Act;
 - Receive an annual salary set by the board; and
- Make an annual report of all expenditures from 911 fees to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities, or their successors.

The bill would authorize the Board to perform the following:

- Contract with any person to assist in the performance of the powers, duties, and functions of the Board;
- Reimburse state agencies or independent contractors for expenses incurred in carrying out the powers, duties, and functions of the Board;
- Apply for grants under the federal 911 Grant Program;
- Recommend training for general PSAP operations;
- Enter into and support agreements for the interstate and interlocal interconnection of ESInet service; and

- Adopt rules and regulations as the Board deems necessary for the implementation and administration of the Kansas 911 Act.

The bill would also specify that the Board cannot establish a mandatory certification program for PSAP operations or PSAP emergency communications personnel.

911 Coordinating Council Transition (New Sections 3 and 9)

The bill would authorize the Council, on or after July 1, 2024, to make preparation for the transition of powers, duties, and functions to the Board. Actions could include the following:

- Employ individuals deemed necessary to assist with the transition;
 - Employees would be in unclassified service and receive compensation fixed by the Council; and
- Prepare a budget reflecting the establishment of a board and a 911 fund within the state treasury;

The bill would specify that expenses related to this preparation would be considered administrative in nature and could be paid for with funds within the 911 Operations Fund.

The bill would require, on or after July 1, 2025, necessary employees of the Council be made employees of the Board, and such employees would retain all benefits and civil service rights that have accrued to or vested in them. Their service would be considered continuous.

911 Board Successorship (New Section 3, Sections 15, 17, 21, 27)

Additionally, on or after July 1, 2025, the bill would make the Board the successor to the powers, duties, property, and records of the Council in every way. When the term “911 Coordinating Council” or words of like effect are referred to, it would be deemed to apply to the Board. Rules and regulations adopted by the Council would also continue to be in effect and considered adopted by the Board until amended, revoked, or nullified.

Beginning on July 1, 2025, the bill would make conforming changes throughout by replacing the term “coordinating council” with “board” where necessary. Further, it would specify any contract made between the Council and a Local Collection Point Administrator (LCPA) as of January 1, 2025, would remain valid until action is taken by the Board.

Continuations of Requirements Currently Found in the 911 Act (New Section 4)

The bill would also continue the following provisions, which currently only apply to the Council but would apply, upon enactment, to the Board, PSAPs, and governing bodies that contract with a governing body of a PSAP for the provision of 911 PSAP services [Note: The bill would repeal the relevant provisions of law and enact new provisions that are substantially similar, with the only change being the entities they are applicable to]:

- Wireless telecommunication providers (Providers) must submit contact information to the board;
- Providers must establish “911” as a unique emergency number;
- Providers must seek prior approval from PSAPs to rout emergency calls;

- Providers may recover from customers costs associated with 911 fees;
- The Board may assess and recover civil penalties from Providers found in violation of the act;
- PSAPs and contractor-governing bodies of a PSAP must file an annual report with the Board and would be subject to penalties for noncompliance;
- PSAPs and contractor-governing bodies of a PSAP must maintain GIS data and its compliance with the law.

Definitions (Section 11)

On or after July 1, 2025, the bill would define the term “Board” to mean the State 911 Board, and make other conforming changes throughout the section, including, but not limited to, replacing references to the Council with references to the Board.

Creation of Funds in State Treasury and Transfers from External Funds. (New Sections 5, 6, 7, 8, Sections 13, 14, 18, 22)

The bill would create a State 911 Operations Fund, State 911 Grant Fund, and State 911 Fund within the state treasury to receive transfers of 911 fees. Under current law, these fees are received by similarly named funds not within the state treasury. The bill would also require a transfer of the balance of 911 fees and any liabilities from the external funds to the corresponding funds within the state treasury. These provisions would take effect on January 1, 2026.

The bill would require the funds be used only for the following purposes:

- Administrative and operational expenses of the Board, including employee salaries [State 911 Operations Fund];
- Expenses incurred for contracts entered into by the Board [State 911 Operations Fund];
- Payment to state agencies or independent contractors [State 911 Operations Fund];
- Development, deployment, implementation, and maintenance of the statewide NG911 system [State 911 Operations Fund];
- State grants for projects involving the development and implementation of NG911 services [State 911 Grant Fund];
- Grants to PSAPs based on demonstrated need [State 911 Grant Fund];
- Costs associated with PSAP consolidation or cost-sharing projects [State 911 Grant Fund]; and
- Minimum and direct distribution to PSAPs.

The bill would also clarify that, on or after July 1, 2026, the fees, withholding, and distributions administered by the LCPA found in current law for the external 911 funds will now be remitted to the funds within the state treasury.

The bill would also make clear that funds deposited in the 911 Federal Grant Fund and 911 State Maintenance Fund, both currently within the state treasury, would be remitted to the State Treasurer and deposited to the credit of the respective fund. The bill would remove the Chair of the Council as the administrator of each fund. These changes would take effect on or after July 1, 2025.

Expenditure Reporting Requirements and Audits (New Section 8, Sections 28 and 29)

The bill would require, beginning July 1, 2025, the LCPA to provide a report on or before the 15th day of each month to the Director of the Legislative Research Department and Secretary of Administration. The report would account for every transaction involving the external 911 funds in the prior month and include other requirements set forth in the bill. Additionally, the Board would be required to prepare a report before January 31, 2026, for the Legislature summarizing the transactions that occurred between July 1, 2025, and January 1, 2026. These provisions would expire on February 1, 2026.

Beginning on July 1, 2025, the bill would give the Board the ability to require an audit of wireless provider records concerning the collection of 911 fees and would remove this authority from the LCPA.

Additionally, the bill would remove provisions requiring the Legislative Division of Post Audit to conduct audits of the 911 system and the Council.

911 Fees and Prepaid 911 Wireless Fees (Sections 19, 20, 23, 24, 25, 26, 28)

On or after January 1, 2025, the Board would be authorized to lower the 90 cent 911 fee, which law currently holds static, if it is found that the moneys generated by the fee exceed the costs required to operate the PSAPs within Kansas.

Beginning on or after July 1, 2024, the bill would also increase the minimum county distribution of 911 fees from \$60,000 to \$70,000. Additionally, beginning on or after July 1, 2024, the bill would authorize the Board to increase the minimum county distribution once a year in an amount not more than the prior year's distribution limit multiplied by the average percentage increase in the consumer price index for

urban consumers in the Midwest region. In sum, the Board would be permitted to increase the minimum county distribution as indexed to inflation once per year. Before the Board could authorize the increase, it would be required to consider:

- Need of the increase based on expenditures of counties that would receive a minimum distribution; and
- Impact of an increase on the financial stability of all other distributions to PSAPs.

After January 1, 2026, the bill would remove existing requirements requiring the transfer of remaining moneys after distributions to counties that are not attributable to specific counties to the external 911 Operations Fund, and the transfer of prepaid wireless funds from the 911 State Fund to the 911 Operations Fund. The bill would require the Board or the LCPA to certify to the Director of Accounts and reports the amount of money remaining and the amount that could not be attributed to a specific PSAP or governing body of a PSAP prior to the transfer of funds to the Sate 911 Operations Fund.

Further, the bill would clarify prepaid wireless 911 fees in excess of \$3.0 million would be remitted by the Kansas Department of Revenue and deposited in the 911 Operations Fund to be distributed to governing bodies and PSAPs in an amount proportional to the county population expressed as a percentage share of the population of the state. If there is no PSAP within a county, then the moneys shall be distributed to the governing body that contracts with another governing body of a PSAP for the provisions of 911 services.

The bill would also specify that the LCPA is required to deposit funds received from a PSAP that had made an unauthorized expenditure in the State 911 Grant Fund.

Technical Changes (Throughout)

The bill would make numerous technical and conforming changes, including, but not limited to, the following:

- Removing language establishing external funds for 911 fees;
- Clarifying provider remittance to the LCPA;
- Replacing a reference to the Kansas Rural Independent Telephone Coalition with the Communications Coalition of Kansas. [*Note:* This entry was established when the Kansas Rural Independent Telephone Companies merged with the Kansas State Independent Telephone Association];
- Replacing references to the “911 Coordinating Council” with “911 Board”; and
- Replacing references of “county” with “governing body of a PSAP.”

Background

The bill was introduced by the House Committee on Energy, Utilities and Telecommunications at the request of Representative Delperdang on behalf of Representatives Hoffman and Carmichael.

House Committee on Energy, Utilities and Telecommunications

In the House Committee hearing on February 13, 2024, Representative Hoffman and a representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association provided **proponent** testimony. Proponents generally stated that the

Council has outgrown its current statutory framework and should be transitioned to a fee-funded state agency over the next few years. One conferee recommended an amendment to allow the Board to adjust the minimum distribution to localities, indexed to inflation, once per year.

Opponent testimony was provided by a representative of the Kansas Chapter of Association of Public-Safety Communications Officials, who cited fiscal concerns because there is not a cap on administrative costs, a fee structure differing from other state boards, the transfer of funds into the state treasury, and the Council or Board's authority to reduce the 911 tax/fee (KSA 12-5369).

Written-only opponent testimony was provided by a representative of Rice County Emergency Communications.

Neutral testimony was provided by a representative of the American Heart Association.

Written-only neutral testimony was provided by representatives of AT&T, Dickinson County Emergency Communications, the City of Overland Park, and T-Mobile.

The House committee amended the bill to:

- Include a mechanism for the Board to increase the minimum distribution to counties;
- Make clear certain transfers would require a report from the Board or LCPA to the Director of Accounts and Reports prior to the remittance of funds; and
- Include technical and conforming changes, including updating the name of a nonvoting member to reflect the organization's new name.

Senate Committee on Utilities

In the Senate Committee hearing, **proponent** testimony was provided by the chairman of the 911 Coordinating Council and a representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association. The chairman stated because 911 services is a state function, it should be administered by a state agency (the Board). The representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association stated that the contracting parties working with the LCPAs make the contracts with the PSAPs. This bill would close that loophole by giving that contract-making authority to the Board and governing bodies of the PSAPs. He asked for there to be an amendment to change the word “county” to “governing body of a PSAP” to accommodate possible contracts for providing PSAP services for those counties that do not maintain a PSAP or a city providing PSAP services allowing for more flexibility in providing 911 services.

Representative Hoffman provided written-only proponent testimony.

Neutral testimony was provided by representatives of the American Heart Association (AHA) and the Council. The representative of the Council asked for an amendment to include language allowing the Board to enter into contracts for ESInet to allow for cross-state 911 coordination services. The representative of the AHA described how telecommunicators are the “true” first responders in potentially providing telecommunicated CPR and other guidance until first responders are able to arrive at the scene of an emergency.

No other testimony was provided.

The Senate Committee amended the bill to:

- Change instances of the word “county” to “governing body” or “governing body of a PSAP” and make other conforming changes throughout;
- Update the minimum amount of distribution from \$60,000 to \$70,000;
- Require that the governing bodies of PSAPs entering into a contract or memorandum of agreement (MOA) to provide 911 services must address contingency plans and overflow arrangements. The Council would review the contract or MOA to ensure there are no conflicts with the function of the statewide 911 system. If there is an issue, the Council would work and collaborate with the governing bodies of a PSAP to resolve such concerns prior to the effective date of a contract or MOA. In the contract or MOA, the governing body and governing body of a PSAP will agree upon a percentage of the governing body’s distribution amount for the LCPA to distribute to the governing body of the PSAP for the provision of 911 services.
- Create an exception for the legislative members appointed to the Board to serve their terms commensurate their legislative terms;
- Change the reporting requirements of the governing bodies of PSAPs to provide the report to the Board on the 1st day of every month to on or before the 15th day of every month;
- Require a monthly report starting January 1, 2025;
- Require the Board to provide details from the monthly statements to the Legislature on or before January 31, 2026, instead of January 12, 2026;
- Provide a sunset of those monthly reports and report to the Legislature on February 1, 2026;

- Change the effective date from publication in the statute book to publication in the *Kansas Register*;
- Increase the allocation of the percentages of 911 fees distributed to PSAPs based upon county population size by 3 percent and combine and increase the lowest population size count category from 25,000 to 34,999 and less than 25,000 to a single category for less than 35,000;
- Create a technical change for the following three members serving on the Board:
 - The member serving on the Board representing a fire chief to change to representing the Kansas State Association of Fire Chiefs;
 - The member serving on the Board recommended by the Kansas Emergency Medical Services Board to be recommended by the Kansas Board of Emergency Medical Services;
 - The member serving on the Board representing rural telecommunications companies recommended by the Kansas Rural Independent Telephone Companies to be recommended by the Communications Coalition of Kansas; and
- Allow 911 PSAP state grant funds and allocation funds to be used for emergency repair or replacement of radio towers.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, it is assumed that the new Board would be required to use the state accounting, payroll, and budgeting system and pay 10 percent of its

revenues to the State General Fund, up to \$100,000, to assist with paying for these services. The Board currently has 4.00 FTE (full-time equivalent) positions that are independent contractors who do not receive benefits and work more than 40 hours per week. The Council estimates it would need 2.00 or 3.00 additional FTE positions to perform accounting and payroll duties that would be required of the Board. These additional positions would cost between \$179,767 for 2.00 FTE positions and \$265,153 for 3.00 FTE positions from fee funds starting in FY 2026. The Board would also use the Office of Information Technology Services for its computer services, but the additional costs for these services are unknown. The Council estimates revenues of \$39.8 million and expenditures of \$35.9 million, including PSAP payments, for calendar year 2023. Because the new agency is estimated to have a surplus of funds, the agency should be self-sustaining and not require any funding from the State General Fund.

The Kansas State School for the Blind, Kansas State School for the Deaf, Emergency Medical Services Board, Office of the Governor, Adjutant General, Legislature, State Fire Marshal, Office of Information Technology Services, Department of Revenue, and Office of Judicial Administration all state that the bill would not have a fiscal effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties states that enactment of the bill could impact the PSAP funding amounts, which would affect counties. However, the Association cannot estimate the amount of effect, if any, the bill would have. The League of Kansas Municipalities states that the bill would not have a fiscal effect on cities.

Kansas 911 Act; 911 Coordinating Council; 911 Board; E-911; Next Generation 911; Public Service Answering Point