

HOUSE BILL No. 2309

By Committee on Energy, Utilities and Telecommunications

2-6

1 AN ACT concerning the Kansas 911 act; relating to the 911 coordinating
2 council; making the 911 coordinating council subject to the Kansas
3 governmental operations accountability law; reducing the fees imposed
4 on telecommunications services and prepaid wireless services pursuant
5 to such act; amending K.S.A. 12-5364, 12-5369 and 12-5371 and
6 repealing the existing sections.
7

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

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

16 (2) The 911 coordinating council shall consist of 13 voting members
17 to be appointed by the governor: Two members representing information
18 technology personnel from government units; one member representing
19 the Kansas sheriff's association; one member representing the Kansas
20 association of chiefs of police; one member representing a fire chief; one
21 member recommended by the adjutant general; one member recommended
22 by the Kansas emergency medical services board; one member
23 recommended by the Kansas commission for the deaf and hard of hearing;
24 two members representing PSAPs located in counties with less than
25 75,000 in population; two members representing PSAPs located in
26 counties with greater than 75,000 in population; and one member
27 representing the Kansas chapter of the association of public safety
28 communications officials. At least two of the members representing PSAPs
29 shall be administrators of a PSAP or have extensive prior 911 experience
30 in Kansas.

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

1 (4) The 911 coordinating council shall also include nonvoting
2 members to be appointed by the governor: One member representing rural
3 telecommunications companies recommended by the Kansas rural
4 independent telephone companies; one member representing incumbent
5 local exchange carriers with over 50,000 access lines; one member
6 representing large wireless providers; one member representing VoIP
7 providers; one member recommended by the league of Kansas
8 municipalities; one member recommended by the Kansas association of
9 counties; one member recommended by the Kansas geographic
10 information systems policy board; one member recommended by the
11 Kansas office of information technology services; one member, *who is* a
12 Kansas resident; recommended by the Mid-America regional council; and
13 two members representing non-traditional PSAPs, one of whom shall be a
14 representative of tribal government.

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

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

24 (A) One member representing information technology personnel from
25 government units, one member recommended by the adjutant general, one
26 member representing PSAPs located in counties with less than 75,000 in
27 population and one member representing PSAPs located in counties with
28 75,000 or more in population shall serve a term of two years;

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

34 (C) one member representing a fire chief, one member recommended
35 by the Kansas commission for the deaf and hard of hearing, one member
36 representing the Kansas association of chiefs of police and one member
37 representing PSAPs located in counties with 75,000 or more in population
38 shall serve a term of four years.

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

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

43 (c) (1) The governor shall select the chair of the 911 coordinating

1 council, who shall serve at the pleasure of the governor and have extensive
2 prior 911 experience in Kansas.

3 (2) The chair shall serve as the coordinator of E-911 services and next
4 generation 911 services in the state, implement statewide 911 planning,
5 have the authority to sign all certifications required under 47 C.F.R. part
6 400 and administer the 911 federal grant fund and 911 state maintenance
7 fund. The chair shall serve subject to the direction of the council and
8 ensure that policies adopted by the council are carried out. The chair shall
9 serve as the liaison between the council and the LCPA. The chair shall
10 preside over all meetings of the council and assist the council in
11 effectuating the provisions of this act.

12 (d) The 911 coordinating council, by an affirmative vote of nine
13 voting members, shall select the local collection point administrator,
14 pursuant to K.S.A. 12-5367, and amendments thereto, to collect 911 fees
15 and to distribute such fees to PSAPs and to distribute 911 operations fund
16 moneys and 911 state grant fund moneys as directed by the council. The
17 council shall adopt rules and regulations for the terms of the contract with
18 the LCPA. All contract terms and conditions shall satisfy all contract
19 requirements as established by the secretary of administration. The council
20 shall determine the compensation of the LCPA who shall provide the
21 council with any staffing necessary in carrying out the business of the
22 council or effectuating the provisions of this act. The moneys used to
23 reimburse these expenses shall be paid from the 911 operations fund,
24 pursuant to subsection (j).

25 (e) (1) The 911 coordinating council is hereby authorized to adopt
26 rules and regulations necessary to effectuate the provisions of this act,
27 including, but not limited to: (A) Creating a uniform reporting form
28 designating how moneys, including 911 fees, have been spent by the
29 PSAPs; (B) requiring service providers to notify the council pursuant to
30 subsection (k); (C) establishing standards for coordinating and purchasing
31 equipment; (D) recommending standards for general operations training of
32 PSAP personnel; (E) establishing training standards and programs related
33 to the technology and operations of the NG911 hosted solution; (F)
34 establishing data standards, maintenance policies and data reporting
35 requirements for GIS data; and (G) assessing civil penalties pursuant to
36 subsection (m).

37 (2) The chair of the council shall work with the council to adopt rules
38 and regulations necessary for the administration of this act, but the council
39 shall not adopt any rules and regulations or impose any requirements that
40 creates a mandatory certification program of PSAP operations or PSAP
41 emergency communications personnel.

42 (f) If the 911 coordinating council finds that the GIS data for a PSAP
43 is inaccurate or has not been updated for one year or more, the council

1 shall give written notice to the governing body that oversees the PSAP. If,
2 within 60 days of providing such notice, the council does not receive an
3 acceptable proposal for the PSAP to bring the GIS data into compliance,
4 the council may contract with a third party to review and update the GIS
5 data. A PSAP with GIS data that has not been updated for one year or more
6 may provide a certification attesting that the GIS data has been reviewed
7 and remains accurate. If the council receives such certification and has
8 information that the data may not be accurate, the council shall provide a
9 written notice to the PSAP that describes the areas the council believes to
10 be inaccurate and a deadline of 30 days for the PSAP to submit updated
11 GIS data. If the updated GIS data is not received within the deadline, the
12 council may contract with a third party to review and update the GIS data.
13 The council shall assess the governing body that oversees the PSAP for
14 any costs incurred in updating the GIS data.

15 (g) The council may, pursuant to rules and regulations, lower the 911
16 fee established pursuant to K.S.A. 12-5369, and amendments thereto, upon
17 a finding based on information submitted on the uniform reporting forms,
18 that moneys generated by such fee are in excess of the costs required to
19 operate PSAPs in the state.

20 (h) The council may appoint subcommittees as necessary to
21 administer grants, oversee collection and distribution of moneys by the
22 LCPA, develop technology standards, develop training recommendations
23 and other issues as deemed necessary by the council. Subcommittees, if
24 appointed, shall include members of the council and other persons as
25 needed.

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

31 (j) All expenses related to the council shall be paid from the 911
32 operations fund. No more than 2.0% of the total receipts from providers
33 and the department received by the LCPA shall be used to pay for
34 administrative expenses of the council. Members of the council and other
35 persons appointed to subcommittees by the council may receive
36 reimbursement for meals and travel expenses, but shall serve without other
37 compensation with the exception of legislative members who shall receive
38 compensation pursuant to K.S.A. 75-3212, and amendments thereto.

39 (k) Every provider shall submit contact information for the provider
40 to the council. Any provider that has not previously provided wireless
41 telecommunications service in this state shall submit contact information
42 for the provider to the council within three months of first offering
43 wireless telecommunications services in this state.

1 (l) (1) Each PSAP shall file an annual report with the council by
2 March 1 of each year demonstrating how such PSAP has spent the moneys
3 earned from the 911 fee during the preceding calendar year. The council
4 shall designate the content and form of such report and any associated
5 documentation that is required to finalize such report.

6 (2) If a PSAP fails to file and finalize an annual report, the council
7 shall provide notice of such failure to the PSAP and the governing body of
8 such PSAP. If such PSAP fails to file or finalize an annual report within 60
9 days of receiving such notice, 10% of each subsequent distribution of 911
10 fees to such PSAP pursuant to K.S.A. 12-5373, and amendments thereto,
11 shall be withheld by the LCPA and only distributed to such PSAP once the
12 report has been submitted.

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

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

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

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

30 (q) *The provisions of the Kansas governmental operations*
31 *accountability law apply to the 911 coordinating council, and the council,*
32 *any subcommittees, contractors or subcontractors of the council shall be*
33 *subject to audit, review and evaluation under such law.*

34 Sec. 2. K.S.A. 12-5369 is hereby amended to read as follows: 12-
35 5369. Subject to the provisions of K.S.A. 12-5364(g), and amendments
36 thereto, there is hereby imposed a 911 fee in the amount of ~~\$.90~~ \$0.72 per
37 month per subscriber account of any exchange telecommunications
38 service, wireless telecommunications service, VoIP service, or other
39 service capable of contacting a PSAP. Such fee shall not be imposed on
40 prepaid wireless service. It shall be the duty of each exchange
41 telecommunications service provider, wireless telecommunications service
42 provider, VoIP service provider or other service provider to remit such fees
43 to the LCPA as provided in K.S.A. 12-5370, and amendments thereto.

1 Sec. 3. K.S.A. 12-5371 is hereby amended to read as follows: 12-
2 5371. (a) There is hereby imposed a prepaid wireless 911 fee of ~~2.06%~~
3 1.65% per retail transaction or, on and after the effective date of an
4 adjusted amount per retail transaction that is established under subsection
5 (f), such adjusted amount.

6 (b) The prepaid wireless 911 fee shall be collected by the seller from
7 the consumer with respect to each retail transaction occurring in this state.
8 The amount of the prepaid wireless 911 fee shall be either separately stated
9 on an invoice, receipt or other similar document that is provided to the
10 consumer by the seller, or otherwise disclosed to the consumer.

11 (c) For purposes of subsection (b), a retail transaction that is effected
12 in person by a consumer in a business location of the seller shall be treated
13 as occurring in this state if that business location is in this state, and any
14 other retail transaction shall be treated as occurring in this state if the retail
15 transaction is treated as occurring in this state for the purposes of K.S.A.
16 79-3673(c)(3), and amendments thereto.

17 (d) The prepaid wireless 911 fee is the liability of the consumer and
18 not of the seller nor of any provider, except that the seller shall be liable to
19 remit all prepaid wireless 911 fees that the seller collects from consumers
20 pursuant to this section, and amendments thereto, including all such fees
21 that the seller is deemed to collect where the amount of the charge has not
22 been separately stated in an invoice, receipt or other similar document
23 provided to the consumer by the seller.

24 (e) The amount of the prepaid wireless 911 fee that is collected by a
25 seller from a consumer, if such amount is separately stated on an invoice,
26 receipt or other similar document provided to the consumer by the seller,
27 shall not be included in the base for measuring any tax, fee, surcharge or
28 other charge that is imposed by this state, any political subdivision of this
29 state or any intergovernmental agency.

30 (f) The prepaid wireless 911 fee shall be proportionately reduced
31 upon any reduction to the fee imposed by K.S.A. 12-5369(a), and
32 amendments thereto, pursuant to the 911 coordinating council's authority
33 to reduce the fee under K.S.A. 12-5364(g), and amendments thereto. The
34 adjusted amount shall be the ~~product~~ *quotient* of dividing the numeric
35 amount of the new fee adjusted pursuant to K.S.A. 12-5364(g), and
36 amendments thereto, by 50. Such reduction shall be effective on the
37 effective date of the reduction of the fee imposed by K.S.A. 12-5369(a),
38 and amendments thereto, or, if later, the first day of the calendar quarter to
39 occur at least 60 days after the enactment of the reduction of the fee
40 imposed by K.S.A. 12-5369(a), and amendments thereto. The department
41 shall provide not less than 60 days' notice of such decrease on the
42 department's website.

43 (g) When prepaid wireless service is sold with one or more other

1 products or services for a single, non-itemized price, then the percentage
2 specified in subsection (a) shall apply to the entire non-itemized price
3 unless the seller elects to apply such percentage to: (1) If the amount of the
4 prepaid wireless service is disclosed to the consumer as a dollar amount,
5 such dollar amount; or (2) if the seller can identify the portion of the price
6 that is attributable to the prepaid wireless service by reasonable and
7 verifiable standards from its books and records that are kept in the regular
8 course of business for other purposes, including, but not limited to, non-
9 tax purposes, such portion.

10 Sec. 4. K.S.A. 12-5364, 12-5369 and 12-5371 are hereby repealed.

11 Sec. 5. This act shall take effect and be in force from and after July 1,
12 2024, and its publication in the statute book.