

HOUSE BILL No. 2423

By Committee on Energy and Utilities

1-12

9 AN ACT concerning emergency telephone service; relating to fees,
10 charges, collection and distribution; amending K.S.A. 2009 Supp. 12-
11 5338 and 12-5361 and repealing the existing sections; also repealing
12 K.S.A. 12-5301, 12-5303, 12-5304, 12-5305, 12-5306, 12-5307, 12-
13 5308, 12-5309 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
14 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
15 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
16 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
17 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
18 amended by section 13, and 12-5361, as amended by section 14.
19

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

21 New Section 1. (a) Sections 1 through 12 and 15, and amendments
22 thereto, shall be known and may be cited as the Kansas 911 act.

23 (b) This section shall take effect on and after January 1, 2011.

24 New Sec. 2. (a) As used in the Kansas 911 act:

25 (1) "Exchange telecommunications service" means the service that
26 provides local telecommunications exchange access to a service user.

27 (2) "Local Collection Point Administrator (LCPA)" means the state-
28 wide association of cities established by K.S.A. 12-1610e, and amend-
29 ments thereto, and the statewide association of counties established by
30 K.S.A. 19-2690, and amendments thereto.

31 (3) "Next generation 911" means 911 service that enables PSAP's to
32 receive text, image, video, and data information from callers.

33 (4) "Person" means any individual, firm, partnership, copartnership,
34 joint venture, association, cooperative organization, corporation, municipi-
35 pal or private, and whether organized for profit or not, state, county,
36 political subdivision, state department, commission, board, bureau or fra-
37 ternal organization, nonprofit organization, estate, trust, business or com-
38 mon law trust, receiver, assignee for the benefit of creditors, trustee or
39 trustee in bankruptcy or any other legal entity.

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

- 1 (6) "Place of primary use" has the meaning provided in the mobile
2 telecommunications act (4 U.S.C. 116, et. seq., as in effect on the effective
3 date of this act).
- 4 (7) "Provider" means any person who provides exchange telecom-
5 munications service, wireless telecommunications service, VoIP service,
6 or other service capable of contacting a PSAP.
- 7 (8) "PSAP" means a public safety answering point operated by a city
8 or county.
- 9 (9) "Service user" means any person who is provided exchange tele-
10 communications service, wireless telecommunications service, VoIP serv-
11 ice, prepaid wireless service, or any other service capable of contacting a
12 PSAP.
- 13 (10) "Subscriber account" means the 10-digit access number assigned
14 to a service user regardless of whether more than one such number is
15 aggregated for the purpose of billing a service user.
- 16 (11) "Subscriber radio equipment" means mobile and portable radio
17 equipment installed in vehicles or carried by persons for voice commu-
18 nication with a radio system.
- 19 (12) "VoIP service" means voice over internet protocol.
- 20 (13) "Wholesaler of prepaid wireless service" means a person who
21 purchases at wholesale wireless service from a wireless provider for resale
22 as prepaid wireless service.
- 23 (14) "Wireless telecommunications service" means a two-way voice
24 service provided by a wireless provider.
- 25 (b) This section shall take effect on and after January 1, 2011.
- 26 New Sec. 3. (a) There is hereby imposed a 911 fee in the amount of
27 \$.55 per month per subscriber account of any exchange telecommuni-
28 cations service, wireless telecommunications service, VoIP service, or
29 other service capable of contacting a PSAP. Such fee shall not be imposed
30 on prepaid wireless service. No such fee shall be imposed upon more
31 than 100 exchange telecommunications service subscriber accounts per
32 person per location. It shall be the duty of each exchange telecommuni-
33 cations service provider, wireless telecommunications service provider,
34 VoIP service provider, or other service provider to remit such fees to the
35 local collection point administrator as provided in section 4, and amend-
36 ments thereto.
- 37 (b) There is hereby imposed a 911 fee in the amount of 1% of the
38 retail price of any prepaid wireless service sold in the state. It shall be
39 the duty of each wholesaler of prepaid wireless service to remit such fee
40 to the LCPA as provided in section 4, and amendments thereto.
- 41 (c) This section shall take effect on and after January 1, 2011.
- 42 New Sec. 4. (a) Every billed service user shall be liable for the 911
43 fee until such fees have been paid to the exchange telecommunications

1 service provider, wireless telecommunications service provider, VoIP
2 service provider, or other service provider.

3 (b) The duty to collect the fees imposed pursuant to this act shall
4 commence January 1, 2011. Such fees shall be added to and may be stated
5 separately in billings for the subscriber account. If stated separately in
6 billings, the fees shall be labeled "KS 911 fees."

7 (c) The provider shall have no obligation to take any legal action to
8 enforce the collection of the fees imposed by this act. The provider, other
9 than a wholesaler of prepaid wireless service, shall provide annually to
10 the LCPA a list of amount of uncollected 911 fees along with the names
11 and addresses of those service users which carry a balance that can be
12 determined by the provider to be nonpayment of such fees.

13 (d) The fees imposed by this act shall be collected insofar as practi-
14 cable at the same time as, and along with, the charges for local exchange,
15 wireless, VoIP, or other service in accordance with regular billing practice
16 of the provider.

17 (e) The 911 fees and the amounts required to be collected therefor
18 are due monthly. The amount of such fees collected in one month by the
19 provider or wholesaler of prepaid wireless service shall be remitted to the
20 LCPA not more than 15 days after the close of the calendar month. On
21 or before the 15th day of each calendar month following, a return for the
22 preceding month shall be filed with the LCPA. Such return shall be in
23 such form and shall contain such information as required by the LCPA.
24 The provider or wholesaler of prepaid wireless service required to file
25 the return shall deliver the return together with a remittance of the
26 amount of fees payable to the LCPA. The provider or wholesaler of pre-
27 paid wireless service shall maintain records of the amount of any such
28 fees collected in accordance with this act for a period of three years from
29 the time the fees are collected.

30 (f) The provider or wholesaler of prepaid wireless service may retain
31 an administrative fee of not more than 2% of moneys collected from such
32 fee. The LCPA may retain an administrative fee of not more than 2% of
33 moneys collected from such fee.

34 (g) This section shall take effect on and after January 1, 2011.

35 New Sec. 5. (a) Not later than 30 days after the receipt of moneys
36 from providers pursuant to this act, the LCPA shall distribute such mon-
37 eys to PSAPs based upon the following ratio: 82% shall be distributed to
38 PSAPs based upon place of primary use information provided by the
39 providers and 18% shall be redistributed to PSAPs located in counties
40 with less than 75,000 in population. Moneys which cannot be attributed
41 to a specific PSAP shall be transferred to the LCPA grant fund.

42 (b) Moneys collected from the fee on prepaid wireless service shall
43 be transferred to the LCPA grant fund.

1 (c) The LCPA shall keep accurate accounts of all receipts and dis-
2 bursements of moneys from the 911 fees.

3 (d) Information provided by providers to the LCPA or to the 911
4 coordinating council pursuant to this act will be treated as proprietary
5 records which will be withheld from the public upon request of the party
6 submitting such records.

7 (e) This section shall take effect on and after January 1, 2011.

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

23 (b) This section shall take effect on and after January 1, 2011.

24 New Sec. 7. (a) There is hereby created a 911 coordinating council
25 which shall monitor the delivery of 911 services, develop strategies for
26 future enhancements to the 911 system, and distribute available grant
27 funds to PSAPs. In as much as possible, the 911 coordinating council shall
28 include individuals with technical expertise regarding 911 systems, inter-
29 net technology, and GIS technology. The coordinating council shall con-
30 sist of 12 members to be appointed by the governor: two members rep-
31 resenting wireless telecommunications providers; one member
32 representing a local exchange provider to be recommended by the Kansas
33 telecommunications industry association; one member representing a ru-
34 ral telecommunications company recommended by the Kansas rural in-
35 dependent telephone companies; one member representing VoIP pro-
36 viders; two members recommended by the league of Kansas
37 municipalities; two members recommended by the Kansas association of
38 counties; one member recommended by the Kansas commission for the
39 deaf and hard of hearing; one member recommended by the Kansas
40 emergency medical services board; and, one member recommended by
41 the adjutant general. The council shall also include two members of the
42 Kansas house of representatives as appointed by the speaker of the house;
43 one member of the Kansas house of representatives as appointed by the

1 minority leader of the house; two members of the Kansas senate as ap-
2 pointed by the senate president and one member of the Kansas senate
3 as appointed by the senate minority leader. The governor shall designate
4 one member as chair of the council.

5 (b) The terms of office for members of the 911 coordinating council
6 shall commence January 1, 2011 and shall be subject to reappointment
7 every three years.

8 (c) The 911 coordinating council is hereby authorized to adopt rules
9 and regulations necessary for effectuation of the provisions of this act,
10 including, but not limited to, assessing civil penalties.

11 (d) No civil penalty shall be imposed pursuant to this section except
12 upon the written order of the 911 coordinating council. Such order shall
13 state the violation, the penalty to be imposed and the right of such pro-
14 vider to appeal the penalty in accordance with the provisions of the Kansas
15 administrative procedure act.

16 (e) Any civil penalty recovered pursuant to this section shall be de-
17 posited with the LCPA grant fund.

18 (f) So long as the provider is working in good faith to comply with
19 the provisions of this act, no civil penalty shall be imposed prior to January
20 1, 2012.

21 (g) The LCPA shall provide staff support to the 911 coordinating
22 council. Members of the 911 coordinating council may receive reimburse-
23 ment for meals and travel expenses, but shall serve without other com-
24 pensation. All expenses related to the 911 coordinating council shall be
25 paid from the LCPA grant fund.

26 (h) This section shall take effect on and after January 1, 2011.

27 New Sec. 8. (a) PSAPs, the LCPA, providers, and wholesalers of pre-
28 paid wireless service shall not be liable for any form of damages resulting
29 directly or indirectly from the performance of installing, maintaining or
30 providing 911 service.

31 (b) This section shall be in force and effective on and after January
32 1, 2011.

33 New Sec. 9. (a) The receipts and disbursements of the LCPA shall
34 be audited yearly by a licensed municipal accountant or certified public
35 accountant.

36 (b) The LCPA may require an audit of any provider's books and re-
37 cords concerning the collection and remittance of fees pursuant to this
38 act. The cost of any such audit shall be paid from the LCPA grant fund.

39 (c) Annually, the division of post audit shall conduct an audit of the
40 911 service system to determine: (1) Whether moneys received by PSAPs
41 pursuant to the act are being used appropriately; (2) whether the amount
42 of moneys collected pursuant to this act is adequate; and (3) the status of
43 911 service implementation. The audit shall be in accordance with a scope

1 statement authorized and approved by the legislative post audit commit-
2 tee. Audits under this section shall be conducted on a random basis and
3 not more than 35 PSAPs shall be audited during any one calendar year.
4 The cost of such audit shall be paid from the LCPA grant fund. The audit
5 report shall be submitted to the 911 coordinating council, the LCPA, the
6 house energy and utilities committee, and the senate utilities committee.

7 (d) This section shall take effect on and after January 1, 2011.

8 New Sec. 10. (a) Nothing in this act shall be construed to limit the
9 ability of a provider from recovering directly from the provider's custom-
10 ers its costs associated with designing, developing, deploying and main-
11 taining 911 service and its cost of collection and administration of the
12 fees imposed by this act, whether such costs are itemized on the cus-
13 tomer's bill as a surcharge or by any other lawful method.

14 (b) This section shall take effect on and after January 1, 2011.

15 New Sec. 11. (a) The LCPA shall establish and maintain a grant fund
16 for PSAPs, which shall not be part of the state treasury. Such money and
17 any interest earned on such money may only be expended for the follow-
18 ing purposes: projects involving the development of next generation 911
19 services; costs associated with PSAP consolidation or cost-sharing pro-
20 jects; other purposes as defined in section 6 on its effective date, and
21 amendments thereto.

22 (b) The 911 coordinating council shall develop criteria for grant ap-
23 plicants and make the final determination as to the distribution of grant
24 funds.

25 New Sec. 12. On the effective date of this act, all funds remaining
26 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
27 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
28 funds received on or after the effective date of this act and prior to January
29 1, 2011, shall be transferred to the LCPA at least monthly. The LCPA
30 shall deposit such amount in the LCPA grant fund to be distributed as
31 provided in section 11, and amendments thereto.

32 Sec. 13. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as
33 follows: 12-5338. (a) On ~~July 1, 2010~~ *January 1, 2011*:

34 (1) The wireless enhanced 911 grant fee shall be discontinued, the
35 advisory board shall be abolished, any unobligated balance of the wireless
36 enhanced 911 grant fund shall be paid to the local collection point ad-
37 ministrator for distribution to PSAP's based on the population of the
38 municipality or municipalities served by the respective PSAP and the fund
39 shall be abolished.

40 (2) Within any county which has a population of 125,000 or more,
41 the amount of the tax imposed pursuant to K.S.A. 12-5302, and amend-
42 ments thereto, shall not exceed \$.25 per month per access line or its
43 equivalent and the amount of the wireless enhanced 911 local fee within

1 such jurisdiction shall be an equal amount per month per wireless sub-
2 scriber account.

3 (3) Within any county which has a population of less than 125,000
4 the amount of the tax imposed to K.S.A. 12-5302, and amendments
5 thereto, shall not exceed \$.50 per month per access line or its equivalent
6 and the amount of the wireless enhanced 911 local fee shall be an equal
7 amount per month per wireless subscriber account.

8 (4) The provisions of K.S.A. 2009 Supp. 12-5323 through 12-5329,
9 and amendments thereto, shall expire.

10 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
11 wireless enhanced 911 local fee shall be used only to pay for costs of
12 emergency telephone service described in K.S.A. 12-5304, and amend-
13 ments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-
14 5330, and amendments thereto.

15 Sec. 14. K.S.A. 2009 Supp. 12-5361 is hereby amended to read as
16 follows: 12-5361. (a) On ~~July 1, 2010~~ *January 1, 2011*:

17 (1) The VoIP enhanced 911 grant fee shall be discontinued.

18 (2) The amount of the tax per access line or its equivalent imposed
19 within a jurisdiction pursuant to K.S.A. 12-5302, and amendments
20 thereto, and the amount of the VoIP enhanced 911 local fee per VoIP
21 subscriber whose primary residence is within such jurisdiction shall be an
22 equal amount per month.

23 (3) The provisions of K.S.A. 2009 Supp. 12-5354 and 12-5355, and
24 amendments thereto, shall expire.

25 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
26 VoIP local fee shall be used only to pay for costs of emergency telephone
27 service described in K.S.A. 12-5304, and amendments thereto, and ex-
28 penditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments
29 thereto.

30 New Sec. 15. The provisions of this act are declared to be severable
31 and if any provision, word, phrase or clause of the act or the application
32 thereof to any person shall be held invalid, such invalidity shall not effect
33 the validity of the remaining portions of this act.

34 Sec. 16. K.S.A. 12-5305, 12-5306, 12-5307 and 12-5309 and K.S.A.
35 2009 Supp. 12-5338 and 12-5361 are hereby repealed.

36 Sec. 17. On and after January 1, 2011, K.S.A. 12-5301, 12-5303, 12-
37 5304 and 12-5308 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
38 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
39 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
40 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
41 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
42 amended by section 13, and 12-5361, as amended by section 14, are
43 hereby repealed.

1 Sec. 18. This act shall take effect and be in force from and after its
2 publication in the Kansas register.