

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF  
ON SENATE SUBSTITUTE FOR HOUSE BILL NO. 2582**

As Agreed to May 4, 2010

**Brief\***

Senate Sub. for HB 2582 would amend existing law related to 911 emergency calls. The bill would delay for one year - until July 1, 2011 - provisions in current law that discontinue the wireless enhanced 911 grant fee and the VoIP enhanced 911 grant fee, abolish the wireless enhanced 911 advisory board and the grant fund, and that direct the distribution of the unobligated balance in the grant fund to public safety answering points (PSAPs). The bill would prohibit the use of landline 911 tax moneys and wireless 911 local fee moneys for subscriber radio equipment. In addition, every PSAP would be required to provide the local collection point administrator, by January 10, 2011, an accounting of calendar year 2010 receipts from the local governing body.

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

**Conference Committee Action**

The Conference Committee removed provisions that would have done the following:

- Required collection of prepaid wireless 911 fees at the retail level;
- Modified allowable use of 911 fee moneys by PSAPs;

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

- Created a 911 statewide coordinator to be housed in the Office of the Adjutant General, with authority including administration of the Next Generation 911 federal grant;
- Created a 911 coordinating council with the authority to adopt rules and regulations, monitor service delivery, develop strategy for enhancements to the 911 system, and distribute grants;
- Abolished the wireless enhanced 911 advisory board on the effective date of the Act;
- Modified immunity provisions;
- Established new audit and review requirements;
- Authorized the 911 coordinating council to create the LCPA grant fund, outside the state treasury, to be overseen by a neutral, bonded third-party administrator;
- Specified allowable uses of grant moneys;
- Transferred unobligated moneys from the Wireless Enhanced 911 Grant Fund to the LCPA for deposit in the LCPA Grant Fund upon the effective date of the Act; and
- Transferred monthly to the LCPA Grant Fund all wireless and VoIP enhanced 911 grant fees collected through July 1, 2012, when the fees would be discontinued.

## **Background**

HB 2582, as passed by the House of Representatives, dealt with sentencing requirements. The Senate Committee on Utilities replaced the contents of HB 2582 as passed by the House with the contents of Senate Sub. for House Sub. for Sub. for SB 48, which relates to 911.

Under current law, the funding structure for 911 will change on July 1, 2010 when statutory provisions authorizing the 911 grant fee, Grant Fund, and the grant advisory board expire, and changes in the remaining fees are enacted.

In 2009, the Senate passed SB 48 which would have extended the current funding structure for one year and would create a one-year joint committee to study 911 funding, technology, and related issues. The bill was not acted on in the House of Representatives that year, and the 2009 Interim Special Committee on Utilities was created to review the issue of extending funding, as well as future technology needs. The Special Committee reviewed a joint proposal from representatives of the public safety answering points and the telecommunications industry for funding the 911 system. The introduced version of House Bill 2423 generally reflects the provisions of that proposal.

The House Committee on Energy and Utilities received testimony in support of HB 2423 from representatives of the League of Kansas Municipalities, the Kansas Association of Counties, AT&T, and Sprint. Written comments in support of the bill were received from the Sedgwick County Department of Emergency Communications, the Kansas Association of Chiefs of Police and the Kansas Peace Officers Association, Johnson County Emergency Communications, and the Kansas Legislative Policy Group. A representative of the Legislative Division of Post Audit provided neutral testimony regarding audit provisions in the bill. There was no testimony in opposition to the bill.

During discussion of an amendment to change collection of the 911 fee on prepaid wireless from the wholesaler to the point of sale (retailer), AT&T testified this change could generate \$1.4 million in tax annually, in contrast to the \$350,000 remitted on prepaid wireless in fiscal year 2009. The Secretary of Revenue testified there is a national trend to centralize telecommunications fees, and the Department of Revenue would be agreeable to processing this fee. The Department would be allowed to retain \$70,000 of the remitted

fees in 2011 for costs of establishing the system, in addition to an annual 1 percent administrative fee.

The House Committee made technical and substantive amendments to HB 2423. The substantive amendments included the following:

- Addition of a requirement for the Legislature to review the 911 act during the 2015 Legislative Session and every five years thereafter;
- Replacement of the requirement for an annual audit of the 911 service system by Legislative Post Audit with a requirement for an audit before the end of 2011, and at least once every three years thereafter, under the contract authority and supervision of Legislative Post Audit; and
- Change in responsibility for collection of the 911 fee on prepaid wireless service from the wholesaler to the point of sale (retailer). Sellers could retain a 2 percent administrative fee, and would be required to remit 911 fees to the Department of Revenue by electronic filing.

The House Committee on Energy and Utilities then removed the contents of SB 48 and replaced them with the contents of HB 2423, as amended.

The bill was ruled materially altered and referred to the Senate Utilities Committee, which heard testimony on House Sub. for Sub. for SB 48.

Proponents testifying included representatives of the Kansas Association of Counties, Johnson County Emergency Communications, CenturyLink, the Kansas Association of Chiefs of Police, and the Kansas Peace Officers Association, the League of Kansas Municipalities, and AT&T (also representing Verizon, Sprint, the Kansas Cable Association, T-Mobile, Cox Communications, and U.S. Cellular). Written testimony in support of the bill was received from the Unified

Government of Wyandotte County/Kansas City, the City of Overland Park, the Kansas Statewide Interoperability Executive Committee, and Sedgwick County.

The Senate Committee received written testimony in opposition to the bill from the Topeka Independent Business Association and the Petroleum Marketers and Convenience Store Association of Kansas. They opposed the portion of the bill requiring retail collection of 911 tax on prepaid wireless.

Subgroups of the Committee reviewed sections of the bill, including those related to fee increases, retail collection of the 911 tax on prepaid wireless, allowable uses of fee revenues, immunity, the 911 Coordinating Council, distribution of fees, and location and oversight of the grant fund.

The Committee amended the bill to do the following:

- Delete authorization for a 2 percent administrative fee for retailers collecting the 911 fee on prepaid wireless, and allow retailers that sell ten or fewer prepaid wireless cards in a month to file on paper, rather than electronically;
- Modify the allowable uses of 911 fees by PSAPs, including allowing the 911 Coordinating Council to approve expenditures by counties with less than 10,000 population for items not otherwise allowed under the act;
- Include more specific language regarding immunity;
- Change the composition of the 911 Coordinating Council, and limit the terms of voting members;
- Require PSAPs to file a uniform report annually listing expenditures of 911 fee moneys;
- Authorize the 911 Coordinating Council, pursuant to rules and regulations, to raise or lower the 911 fee within specified limits;

- Further specify rules and regulations authorized to be adopted by the 911 Coordinating Council to include setting standards for coordinating and purchasing equipment, and requiring service providers to notify the Council;
- Amend the Kansas Open Records Act to create an exemption for information provided by providers to the LCPA or the 911 Coordinating Council, upon request;
- Create a 911 Statewide Coordinator, appointed by the Governor and housed at the Kansas Department of Emergency Management;
- Authorize the 911 Coordinating Council to designate the Local Collection Point Administrator effective April 1, 2011;
- Establish the LCPA State Grant Fund outside the state treasury by January 1, 2011, and use a competitive bidding process to select a neutral, competent, and bonded third party to administer the Grant Fund;
- Transfer administration of the Next Generation 911 federal grant from the Kansas Governor's Grants Program to the Department of Emergency Management to be administered by the 911 Statewide Coordinator, create the NG911 federal grant fund in the State treasury, and authorize adoption of rules and regulations necessary to administer the grant; and
- Delete the requirement that no 911 fee be imposed on more than 100 land line phones per location.

The Committee placed the contents of the amended bill into Senate Sub. for House Sub. for Sub. for SB 48.

The Senate Committee of the Whole amended the bill to remove provisions related to fee levels, fee collection and fee distribution for wireline, wireless, and VoIP service, and to replace those provisions with existing law (including technical

amendments to reference relevant sections of the bill). The Committee retained provisions related to prepaid wireless from the Senate Committee's version of the bill, but reduced the fee level from 1.1 percent to 1 percent per retail transaction. Finally, the Committee of the Whole specified that 911 fees could not be used by PSAPs to purchase new reflective road signs required by federal mandate.

The fiscal note for the original version of HB 2423 developed by the Division of the Budget indicates the Office of the Adjutant General expects an increase of approximately \$852 in expenditures annually, based on the number of cellular phones the agency uses. [Note: at the time the fiscal note was developed there was no provision for a 911 Coordinator to be housed at the Office of the Adjutant General] The Board of Emergency Medical Services indicates the bill would have no fiscal effect on the agency. The Kansas League of Municipalities and the Kansas Association of Counties estimate that combined wireless and landline 911 fees paid by Kansas consumers would decrease from approximately \$20.8 million annually to \$19.4 million annually. The Governor's Grants Office indicated it could manage responsibility for the remaining grant funds until January 1, 2011 within existing resources.

The fiscal note for the original version of HB 2582 is not applicable to the substitute bill.