

Amending the Kansas 911 Act; HB 2084

HB 2084 revises the Kansas 911 Act (Act) and repeals three outdated statutes not included in the Act. The bill makes changes to definitions, the membership of the 911 Coordinating Council (Council), administration of funds by the Council, the Council's rules and regulations authority, Local Collection Point Administrator (LCPA) expenses, public safety answering point (PSAP) geographic information service (GIS) data requirements, PSAP annual report requirements, 911 fee funds, 911 fees, PSAP distributions, PSAP expenditures, liability provisions, audit expenses, and county restrictions.

Definitions

The bill adds the following definitions to the Act:

- “GIS” to mean a geographic information system for capturing, storing, displaying, analyzing, and managing data and associated attributes that are spatially referenced;
- “GIS data” to mean the geometry and associated attributes packaged in a geodatabase that defines the roads, address points, and boundaries within a PSAP's jurisdiction; and
- “Non-traditional PSAP” to mean a PSAP not operated by a city or county, including, but not limited to, PSAPs operated by universities, tribal governments, or the state [or] federal government.

The bill amends two definitions in the Act. The law defines “local collection point administrator” to mean the person designated by the Council to collect and distribute 911 fees and 911 state grant fund moneys. The bill creates the 911 Operations Fund and requires the LCPA also collect and distribute 911 Operations Fund moneys. The law defines “Next Generation 911” (NG911) to mean a 911 service that enables PSAPs to receive Enhanced 911 service calls and emergency calls from Internet protocol-based technologies and applications that may include text messaging, image, video, and data information from callers. The bill adds to the definition that NG911 service conforms with National Emergency Number Association i3 standards.

911 Coordinating Council

Membership

The Council has 13 voting members and the bill eliminates the member representing PSAPs without regard to size and adds a member representing the Kansas chapter of the Association of Public Safety Communications Officials.

The bill adds two members representing non-traditional PSAPs, one of whom shall be a representative of tribal government, to the non-voting membership of the Council. These members are appointed by the Governor.

Expenses

Prior law required the Council-related expenses to be reimbursed from the 911 State Grant Fund. The bill requires the expenses to be reimbursed from the 911 Operations Fund, which is created by the bill. The bill limits payments for administration expenses of the Council to 2.0 percent of the total receipts from providers and the Kansas Department of Revenue (Department) received by the LCPA. The Council is authorized to reimburse state agencies or independent contractors for expenses incurred effectuating the Act, from the 911 Operations Fund.

Rules and Regulations

The Council's authority to adopt rules and regulations necessary to effectuate the provisions of the Act is expanded to include establishing training standards and programs related to the technology and operations of the NG911 hosted solution; establishing data standards, maintenance policies, and data reporting requirements for GIS data; and assessing civil penalties upon a finding that a provider has violated any provision of the Act.

The bill prohibits the Council from adopting rules and regulations or imposing any requirements that create a mandatory certification program of PSAP operations or PSAP emergency communications personnel.

Local Collection Point Administrator

Expenses

Prior law required the LCPA-related expenses be reimbursed from the 911 State Grant Fund. The bill requires the expenses to be reimbursed from the 911 Operations Fund.

Selection

The bill requires the Council to receive approval from the Legislative Coordinating Council (LCC) in selecting the LCPA. Prior law stated the Council shall receive advice and consent from the LCC in selecting the LCPA.

GIS Data Oversight

The bill sets forth a process for the Council to ensure the GIS data for PSAPs remains up to date. If a PSAP does not provide certification of up-to-date GIS data or update its GIS data, the Council is allowed to contract with a third party to update the GIS data and is required to assess the governing body of the PSAP with any costs incurred in updating the GIS data.

Public Safety Answering Points' Annual Reports

The bill requires the Council to provide notice to the governing body of a PSAP that failed to file and finalize an annual report, as required by the Act. If after 60 days the report is not filed or finalized, 10.0 percent of each subsequent distribution of 911 fees will be withheld from such PSAP until such report has been submitted.

911 Operations Fund

The bill requires the LCPA, upon approval of the Council, to establish the 911 Operations Fund for administrative costs of the Council and deployment and maintenance of the Statewide NG911 system outside of the State Treasury.

911 Fees

Subscriber Accounts

The law imposes a 911 fee per month, per subscriber account of any exchange telecommunications service, wireless telecommunications service, voice over Internet protocol service, or other service capable of contacting a PSAP. The bill increases the 911 fee from \$0.53 to \$0.90 per month, per subscriber account. The Council has the authority, through rules and regulations, to lower the fee. The law requires service providers collect the 911 fees and remit such fees to the LCPA for distribution to the PSAPs pursuant to the Act.

Prepaid Purchases

The law imposes a prepaid wireless 911 fee per retail transaction to be collected by the seller and remitted to the Department. The Department remits the fees to the LCPA for distribution as provided in the Act. The bill increases the fee from 1.20 percent to 2.06 percent per transaction. The bill requires the Council, through rules and regulations, to lower the prepaid wireless fee proportionally to any reduction in the 911 subscriber fee. Prior law required the Council to adjust the 911 subscriber fee and required the prepaid 911 fee to be adjusted proportionately, either up or down, upon adjustment of the 911 subscriber fee.

Distribution to PSAPs

The law states 911 fees will be distributed to PSAPs in each county based upon the amount of 911 fees collected from service users located in that county, based on place of primary use information provided by the providers, by using the distribution method set forth in statute. The bill does not change the distribution method; however, the bill increases the minimum county distribution from \$50,000 to \$60,000.

The bill requires, prior to the distribution of 911 fees to the PSAPs, the LCPA withhold \$0.23 from every 911 fee remitted by service providers and deposit such amount in the 911 Operations Fund for deployment and maintenance of the statewide NG911 system and standardized functionality upgrade to that system. The bill states if these funds withheld from

PSAP distribution exceed 15.0 percent of the total receipts received by the LCPA from providers and the Department over the prior three years, the bill requires such funds in excess of the 15.0 percent total to be deposited in the 911 State Grant Fund and used for PSAP grants based on demonstrated need.

The bill requires the LCPA withhold \$0.01 from every 911 subscriber fee remitted to the LCPA prior to PSAP distribution, if the balance in the 911 State Grant Fund is less than \$2.0 million, and deposit such amount in the 911 State Grant Fund. Additionally, if the balance in the 911 State Grant Fund exceeds \$2.0 million, the LCPA is not required to withhold such amount.

The bill requires all moneys remaining after distribution, moneys withheld to deploy and maintain the statewide NG911 system, and any money that cannot be attributed to a specific PSAP be transferred to the 911 Operations Fund.

The bill requires all moneys in the 911 State Fund collected from the prepaid wireless 911 fee be deposited in the 911 Operations Fund unless \$3.0 million of such moneys have been deposited in any given year, then all remaining moneys will be distributed to the counties in an amount proportional to each county's population as a percentage share of the population of the state.

PSAP Expenditures

The bill requires the Council, pursuant to rules and regulations, to establish a process for a PSAP, at the discretion of the PSAP, to seek pre-approval of an expenditure. The Council is required to respond in writing to any pre-approval request within 30 days and inform the PSAP the requested expenditure is approved or disapproved. The bill requires, if the expenditure is disapproved, the written notification state the reason for the disapproval and such PSAP can, within 15 days after service of the notification, make a written request to the Council to appeal the decision and for a hearing to be conducted in accordance with the Kansas Administrative Procedure Act.

The bill requires the Council annually to review expenditures of 911 funds reported on the annual report for each PSAP and to appoint a committee to review such expenditures. The bill states if the committee determines a reported expenditure was not authorized by the Act, the committee is required to request the expenditure be refunded by the PSAP to the PSAP's 911 account. The PSAP is allowed to request a review of the decision of the committee before the Council. Upon a finding that an unauthorized expenditure was made intentionally, the Council is allowed to assess a fine to the PSAP. Any final action of the Council is subject to review in accordance with the Kansas Judicial Review Act.

The law prohibits PSAPs from using 911 fees to purchase subscriber radio equipment. The bill further prohibits the use of 911 fees for the procurement, maintenance, or upgrade of such equipment. The bill also prohibits the use of 911 fees to pay salaries for training of personnel.

Liability

The bill provides, except for action or inaction that constitutes gross negligence or willful and wanton misconduct, the LCPA, PSAPs, and each provider and seller, and their respective employees, agents, suppliers, and subcontractors, shall not be liable for payment of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency communication service or for damages resulting from the performance of installing, maintaining, or providing 911 service.

Audit Expenses

Audits authorized by the Act shall be paid or reimbursed from the 911 Operations Fund.

Restrictions on Counties

Counties shall not be allowed to exempt from or effect changes in the Act.

Outdated Statutes

The bill repeals three outdated statutes regarding enhanced wireless 911 provisions. These statutes are not included in the Act.