

SECOND REGULAR SESSION

SENATE BILL NO. 966

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time February 18, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5034S.011

AN ACT

To repeal sections 190.410, 190.420, 190.430, and 190.440, RSMo, and to enact in lieu thereof five new sections relating to enhanced 911.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.410, 190.420, 190.430, and 190.440, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 190.410, 190.420, 190.425, 190.430, and 190.440, to read as follows:

190.410. 1. There is hereby created in the department of public safety the
2 "Wireless Service Provider Enhanced 911 Advisory Board", consisting of [eight]
3 **seven** members as follows:

4 (1) **An individual appointed by the governor who is familiar with**
5 **the provision of emergency services;**

6 (2) The director of the department of public safety or the director's
7 designee who shall hold a position of authority in such department of at least a
8 division director;

9 [(2)] (3) The chairperson of the public service commission or the
10 chairperson's designee; except that such designee shall be a commissioner of the
11 public service commission or hold a position of authority in the commission of at
12 least a division director;

13 [(3) Three] (4) **Two** representatives [and one alternate from the wireless
14 service providers, elected by a majority vote of wireless service providers licensed
15 to provide service in this state] **of a 911-affiliated association, where such**
16 **representation may or may not be from the same association;** and

17 [(4) Three] (5) **Two** representatives from public safety answering point
18 organizations, elected by the members of the state chapter of the associated

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 public safety communications officials and the state chapter of the National
20 Emergency Numbering Association, **where one such representative shall**
21 **represent rural public safety answering points and the other shall**
22 **represent urban public safety answering points, and both individuals**
23 **shall be directly involved in managing the operations of his or her**
24 **respective agency.**

25 2. Immediately after the board is established the initial term of
26 membership for a member elected pursuant to subdivision [(3)] (4) of subsection
27 1 of this section shall be one year and all subsequent terms for members so
28 elected shall be two years. The membership term for a member elected pursuant
29 to subdivision [(4)] (5) of subsection 1 of this section shall initially and
30 subsequently be two years. Each member shall serve no more than two
31 successive terms unless the member is on the board pursuant to subdivision [(1)
32 or] (2) **or (3)** of subsection 1 of this section. Members of the board shall serve
33 without compensation, however, the members may receive reimbursement of
34 actual and necessary expenses. Any vacancies on the board shall be filled in the
35 manner provided for in this subsection.

36 3. The board shall do the following:

37 (1) Elect from its membership a chair and other such officers as the board
38 deems necessary for the conduct of its business;

39 (2) Meet at least one time per year for the purpose of discussing the
40 implementation of Federal Communications Commission order 94-102;

41 (3) [Advise the office of administration] **Provide guidance** regarding
42 implementation of Federal Communications Commission order 94-102; [and]

43 (4) Provide any requested mediation service to a political subdivision
44 which is involved in a jurisdictional dispute regarding the providing of wireless
45 911 services. The board shall not supersede decision-making authority of any
46 political subdivision in regard to 911 services;

47 **(5) Set and enforce training requirements for enhanced 911**
48 **service provision;**

49 **(6) Review the annual reports submitted to the universal service**
50 **board under subsection 4 of section 190.430;**

51 **(7) Periodically study the feasibility of public safety answering**
52 **point consolidation for improvement of services; and**

53 **(8) Review and approve grants awarded under subsection 3 of**
54 **section 190.430.**

55 4. The director of the department of public safety shall provide and
56 coordinate staff and equipment services to the board to facilitate the board's
57 duties.

190.420. 1. There is hereby established in the state treasury a fund to be
2 known as the "Wireless Service Provider Enhanced 911 Service Fund". All [fees
3 collected] **charges assessed** pursuant to [sections 190.400 to 190.440 by wireless
4 service providers] **section 190.430** shall be remitted **on a monthly basis** to the
5 director of the department of revenue. The director shall remit such payments
6 to the state treasurer.

7 2. The state treasurer shall deposit such payments into the wireless
8 service provider enhanced 911 service fund. Moneys in the fund shall be used for
9 the purpose of reimbursing expenditures actually incurred in the implementation
10 and operation of the wireless service provider enhanced 911 system.

11 3. Any unexpended balance in the fund shall be exempt from the
12 provisions of section 33.080, RSMo, relating to the transfer of unexpended
13 balances to the general revenue fund, and shall remain in the fund. Any interest
14 earned on the moneys in the fund shall be deposited into the fund.

190.425. There is hereby established in the state treasury the
2 **"Telecommunicator Standards and Training Fund". The state treasurer**
3 **shall be custodian of the fund and may approve disbursements from the**
4 **fund in accordance with sections 30.170 and 30.180. Prior to any**
5 **disbursement, ten percent of all revenues deposited into the wireless**
6 **service provider enhanced 911 service fund under section 190.420 shall**
7 **be forwarded to the telecommunicator standards and training**
8 **fund. Money in the fund shall be used solely for training required as**
9 **provided in section 650.340 or for additional training for**
10 **telecommunicators as approved by the department of public safety. All**
11 **interest earned upon moneys in the fund shall be credited to the**
12 **telecommunicator standards and training fund. The provisions of**
13 **section 33.080 to the contrary notwithstanding, moneys in the**
14 **telecommunicator standards and training fund shall not be transferred**
15 **and placed to the credit of the general revenue fund.**

190.430. 1. [The commissioner of the office of administration is
2 authorized to establish a fee, if approved by the voters pursuant to section
3 190.440, not to exceed fifty cents per wireless telephone number per month to be
4 collected by wireless service providers from wireless service customers.] **The**

5 **public service commission is authorized to assess a charge to wireless**
6 **service providers of not less than twenty-five cents nor more than one**
7 **dollar per month for each wireless device through which 911 services**
8 **may be accessed by a customer of the wireless service provider.**

9 2. The [office of administration] **public service commission** shall
10 promulgate rules and regulations to administer the provisions of [sections
11 190.400 to 190.440] **this section**. Any rule or portion of a rule, as that term is
12 defined in section 536.010, RSMo, that is promulgated pursuant to the authority
13 delegated in sections 190.400 to 190.440 shall become effective only if it has been
14 promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking
15 authority delegated prior to July 2, 1998, is of no force and effect and repealed;
16 however, nothing in this section shall be interpreted to repeal or affect the
17 validity of any rule filed or adopted prior to July 2, 1998, if it fully complied with
18 the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are
19 nonseverable and if any of the powers vested with the general assembly pursuant
20 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
21 annul a rule are subsequently held unconstitutional, then the grant of
22 rulemaking authority and any rule proposed or adopted after July 2, 1998, shall
23 be invalid and void.

24 3. The [office of administration] **universal service board created**
25 **under section 392.248** is authorized to administer the fund [and to] **created**
26 **under section 190.420. In accordance with this section and section**
27 **190.440, the board shall** distribute the moneys in the wireless service provider
28 enhanced 911 service fund [for approved expenditures] as follows:

29 (1) [For the reimbursement of actual expenditures for implementation of
30 wireless enhanced 911 service by wireless service providers in implementing
31 Federal Communications Commission order 94-102; and

32 (2) To subsidize and assist the public safety answering points based on
33 a formula established by the office of administration, which may include, but is
34 not limited to the following:

35 (a) The volume of wireless 911 calls received by each public safety
36 answering point;

37 (b) The population of the public safety answering point jurisdiction;

38 (c)] **Sixty percent of the moneys in the fund shall be**
39 **proportionately distributed to public safety answering points based on**
40 the number of wireless telephones in a public safety answering point jurisdiction

41 by zip code; [and

42 (d) Any other criteria found to be valid by the office of administration
43 provided that of the total amount of the funds used to subsidize and assist the
44 public safety answering points, at least ten percent of said funds shall be
45 distributed equally among all said public safety answering points providing said
46 services under said section;

47 (3) For the reimbursement of actual expenditures for equipment for
48 implementation of wireless enhanced 911 service by public safety answering
49 points to the extent that funds are available, provided that ten percent of funds
50 distributed to public safety answering points shall be distributed in equal
51 amounts to each public safety answering point participating in enhanced 911
52 service;

53 (4)] **(2) Thirty-nine percent of the moneys in the fund shall be**
54 **used for grants, next generation 911, and to assist public safety**
55 **answering points with heavy seasonal call volume; and**

56 **(3) Up to one percent of the moneys in the fund may be retained**
57 **by the universal service board for administrative cost recovery.**

58 **4. Each public safety answering point shall submit a report to**
59 **the universal service board by January thirty-first of each year. The**
60 **annual report shall include the following information:**

61 **(1) A listing of its employees with each employee's hiring date**
62 **and training certifications, if any;**

63 **(2) The number of 911 calls received during the year, including**
64 **the percentage of landline and wireless calls; and**

65 **(3) For emergency medical dispatch agencies:**

66 **(a) A form from the medical director that indicates compliance**
67 **with protocols; or**

68 **(b) A certificate of compliance for nationally certified 911 public**
69 **safety answering points.**

70 **5. Notwithstanding any other provision of the law, no proprietary**
71 **information submitted pursuant to this section shall be subject to subpoena or**
72 **otherwise released to any person other than to the submitting wireless service**
73 **provider, without the express permission of said wireless service**
74 **provider. General information collected pursuant to this section shall only be**
75 **released or published in aggregate amounts which do not identify or allow**
76 **identification of numbers of subscribers or revenues attributable to an individual**

77 wireless service provider.

78 [4. Wireless service providers are entitled to retain one percent of the
79 surcharge money they collect for administrative costs associated with billing and
80 collection of the surcharge.

81 5. No more than five percent of the moneys in the fund, subject to
82 appropriation by the general assembly, shall be retained by the office of
83 administration for reimbursement of the costs of overseeing the fund and for the
84 actual and necessary expenses of the board.]

85 6. The [office of administration] **public service commission** shall
86 review the **funding** distribution [formula] once every year and may adjust the
87 amount of the [fee] **charge** within the limits of this section, as determined
88 necessary.

89 7. The provisions of sections 190.307 and 190.308 shall be applicable to
90 programs and services authorized by sections 190.400 to 190.440.

91 8. Notwithstanding any other provision of the law, in no event shall any
92 wireless service provider, its officers, employees, assigns or agents, be liable for
93 any form of civil damages or criminal liability which directly or indirectly result
94 from, or is caused by, an act or omission in the development, design, installation,
95 operation, maintenance, performance or provision of 911 service or other
96 emergency wireless two- and three-digit wireless numbers, unless said acts or
97 omissions constitute gross negligence, recklessness or intentional
98 misconduct. Nor shall any wireless service provider, its officers, employees,
99 assigns, or agents be liable for any form of civil damages or criminal liability
100 which directly or indirectly result from, or is caused by, the release of subscriber
101 information to any governmental entity as required under the provisions of this
102 act unless the release constitutes gross negligence, recklessness or intentional
103 misconduct.

190.440. [1. The office of administration shall not be authorized to
2 establish a fee pursuant to the authority granted in section 190.430 unless a
3 ballot measure is submitted and approved by the voters of this state. The ballot
4 measure shall be submitted by the secretary of state for approval or rejection at
5 the general election held and conducted on the Tuesday immediately following the
6 first Monday in November, 1998, or at a special election to be called by the
7 governor on the ballot measure. If the measure is rejected at such general or
8 special election, the measure may be resubmitted at each subsequent general
9 election, or may be resubmitted at any subsequent special election called by the

10 governor on the ballot measure, until such measure is approved.

11 2. The ballot of the submission shall contain, but is not limited to, the
12 following language:

13 Shall the Missouri Office of Administration be authorized to establish a
14 fee of up to fifty cents per month to be charged every wireless telephone number
15 for the purpose of funding wireless enhanced 911 service?

16 YES NO

17 If you are in favor of the question, place an "X" in the box opposite "Yes". If you
18 are opposed to the question, place an "X" in the box opposite "No".

19 3. If a majority of the votes cast on the ballot measure by the qualified
20 voters voting thereon are in favor of such measure, then the office of
21 administration shall be authorized to establish a fee pursuant to section 190.430,
22 and the fee shall be effective on January 1, 1999, or the first day of the month
23 occurring at least thirty days after the approval of the ballot measure. If a
24 majority of the votes cast on the ballot measure by the qualified voters voting
25 thereon are opposed to the measure, then the office of administration shall have
26 no power to establish the fee unless and until the measure is approved.] **In
27 addition to the other rules set out by this section, to receive money
28 from the wireless service provider enhanced 911 service fund, each
29 county with multiple public safety answering points shall develop a
30 plan to implement physical or virtual consolidation.**

31 **(1) Counties with multiple primary answering points using
32 physical consolidation shall be eligible to apply for money from the
33 fund provided that the plan will provide for a minimum reduction as
34 follows:**

35 **(a) Counties of the second and third classification with multiple
36 primary answering points shall show a seventy-five percent reduction
37 within ten years of the effective date of this section;**

38 **(b) Counties of the first classification or charter form of
39 government with multiple primary answering points shall show a fifty
40 percent reduction within ten years of the effective date of this section.**

41 **(2) Counties using virtual consolidation shall develop a plan to
42 show what equipment will be consolidated and the method of
43 connectivity to be used between each agency. As technology evolves,
44 the plan shall be kept up to date.**

45 **(3) For both types of consolidation, any plan developed shall**

46 **show how management control will be handled.**

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