

SECOND REGULAR SESSION

# HOUSE BILL NO. 910

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LeVOTA.

Pre-filed December 19, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2620L.011

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### AN ACT

To repeal sections 190.400, 190.410, 190.420, 190.430, and 190.440, RSMo, and to enact in lieu thereof four new sections relating to wireless service provider enhanced 911, with a referendum clause.

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

Section A. Sections 190.400, 190.410, 190.420, 190.430, and 190.440, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections 190.400,  
3 190.410, 190.420, and 190.430, to read as follows:

190.400. As used in sections 190.400 to [190.440] **190.430**, the following words and  
2 terms shall mean:

3 (1) "911", the primary emergency telephone number within the wireless system;

4 (2) "Board", the wireless service provider enhanced 911 advisory board;

5 (3) "Public safety agency", a functional division of a public agency which provides fire  
6 fighting, police, medical or other emergency services. For the purpose of providing wireless  
7 service to users of 911 emergency services, as expressly provided in this section, the department  
8 of public safety and state highway patrol shall be considered a public safety agency;

9 (4) "Public safety answering point", the location at which 911 calls are initially  
10 answered;

11 (5) "Wireless service provider", a provider of commercial mobile service pursuant to  
12 Section 332(d) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 151 et seq).

13

190.410. 1. [There is hereby created in the department of public safety the "Wireless

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

2 Service Provider Enhanced 911 Advisory Board", consisting of eight members as follows:

3 (1) The director of the department of public safety or the director's designee who shall  
4 hold a position of authority in such department of at least a division director;

5 (2) The chairperson of the public service commission or the chairperson's designee;  
6 except that such designee shall be a commissioner of the public service commission or hold a  
7 position of authority in the commission of at least a division director;

8 (3) Three representatives and one alternate from the wireless service providers, elected  
9 by a majority vote of wireless service providers licensed to provide service in this state; and

10 (4) Three representatives from public safety answering point organizations, elected by  
11 the members of the state chapter of the associated public safety communications officials and  
12 the state chapter of the National Emergency Numbering Association.

13 2. Immediately after the board is established the initial term of membership for a member  
14 elected pursuant to subdivision (3) of subsection 1 of this section shall be one year and all  
15 subsequent terms for members so elected shall be two years. The membership term for a  
16 member elected pursuant to subdivision (4) of subsection 1 of this section shall initially and  
17 subsequently be two years. Each member shall serve no more than two successive terms unless  
18 the member is on the board pursuant to subdivision (1) or (2) of subsection 1 of this section.  
19 Members of the board shall serve without compensation, however, the members may receive  
20 reimbursement of actual and necessary expenses. Any vacancies on the board shall be filled in  
21 the manner provided for in this subsection.

22 3. The board shall do the following:

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

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

27 (3) Advise the office of administration regarding implementation of Federal  
28 Communications Commission order 94-102; and

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

32 4. The director of the department of public safety shall provide and coordinate staff and  
33 equipment services to the board to facilitate the board's duties] **There is hereby created in the**  
34 **department of public safety the "Wireless Service Provider Enhanced 911 Advisory**  
35 **Board", consisting of eight members as follows:**

36 (1) **The director of the department of public safety or the director's designee who**  
37 **shall hold a position of authority in such department of at least a division director;**

38           **(2) The chairperson of the public service commission or the chairperson's designee;**  
39 **except that such designee shall be a commissioner of the public service commission or hold**  
40 **a position of authority in the commission of at least a division director;**

41           **(3) Three representatives and one alternate from the wireless service providers,**  
42 **elected by a majority vote of wireless service providers licensed to provide service in this**  
43 **state; and**

44           **(4) Three representatives from public safety answering point organizations, elected**  
45 **by the members of the state chapter of the associated public safety communications**  
46 **officials and the state chapter of the National Emergency Numbering Association.**

47           **2. Immediately after the board is established the initial term of membership for a**  
48 **member elected pursuant to subdivision (3) of subsection 1 of this section shall be one year**  
49 **and all subsequent terms for members so elected shall be two years. The membership term**  
50 **for a member elected pursuant to subdivision (4) of subsection 1 of this section shall**  
51 **initially and subsequently be two years. Each member shall serve no more than two**  
52 **successive terms unless the member is on the board pursuant to subdivision (1) or (2) of**  
53 **subsection 1 of this section. Members of the board shall serve without compensation,**  
54 **however, the members may receive reimbursement of actual and necessary expenses. Any**  
55 **vacancies on the board shall be filled in the manner provided for in this subsection.**

56           **3. The board shall do the following:**

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

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

61           **(3) Advise the office of administration regarding implementation of Federal**  
62 **Communications Commission order 94-102; and**

63           **(4) Provide any requested mediation service to a political subdivision which is**  
64 **involved in a jurisdictional dispute regarding the providing of wireless 911 services. The**  
65 **board shall not supersede decision-making authority of any political subdivision in regard**  
66 **to 911 services.**

67           **4. The director of the department of public safety shall provide and coordinate staff**  
68 **and equipment services to the board to facilitate the board's duties.**

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

5           2. The state treasurer shall deposit such payments into the wireless service provider

6 enhanced 911 service fund. Moneys in the fund shall be used for the purpose of reimbursing  
7 expenditures actually incurred in the implementation and operation of the wireless service  
8 provider enhanced 911 system.

9         3. Any unexpended balance in the fund shall be exempt from the provisions of section  
10 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund, and  
11 shall remain in the fund. Any interest earned on the moneys in the fund shall be deposited into  
12 the fund.

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

5         2. The office of administration shall promulgate rules and regulations to administer the  
6 provisions of sections 190.400 to [190.440. Any rule or portion of a rule, as that term is defined  
7 in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in sections  
8 190.400 to 190.440 shall become effective only if it has been promulgated pursuant to the  
9 provisions of chapter 536, RSMo. All rulemaking authority delegated prior to July 2, 1998, is  
10 of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal  
11 or affect the validity of any rule filed or adopted prior to July 2, 1998, if it fully complied with  
12 the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable  
13 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to  
14 review, to delay the effective date or to disapprove and annul a rule are subsequently held  
15 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
16 July 2, 1998, shall be invalid and void] **190.430. No rule or portion of a rule promulgated  
17 pursuant to the authority of this section shall become effective unless it has been  
18 promulgated pursuant to chapter 536, RSMo.**

19         3. The office of administration is authorized to administer the fund and to distribute the  
20 moneys in the wireless service provider enhanced 911 service fund for approved expenditures  
21 as follows:

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

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

- 28             (a) The volume of wireless 911 calls received by each public safety answering point;  
29             (b) The population of the public safety answering point jurisdiction;

30 (c) The number of wireless telephones in a public safety answering point jurisdiction by  
31 zip code; and

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

36 (3) For the reimbursement of actual expenditures for equipment for implementation of  
37 wireless enhanced 911 service by public safety answering points to the extent that funds are  
38 available, provided that ten percent of funds distributed to public safety answering points shall  
39 be distributed in equal amounts to each public safety answering point participating in enhanced  
40 911 service;

41 (4) Notwithstanding any other provision of the law, no proprietary information submitted  
42 pursuant to this section shall be subject to subpoena or otherwise released to any person other  
43 than to the submitting wireless service provider, without the express permission of said wireless  
44 service provider. General information collected pursuant to this section shall only be released  
45 or published in aggregate amounts which do not identify or allow identification of numbers of  
46 subscribers or revenues attributable to an individual wireless service provider.

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

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

52 6. The office of administration shall review the distribution formula once every year and  
53 may adjust the amount of the fee within the limits of this section, as determined necessary.

54 7. The provisions of sections 190.307 and 190.308 shall be applicable to programs and  
55 services authorized by sections 190.400 to [190.440] **190.430**.

56 8. Notwithstanding any other provision of the law, in no event shall any wireless service  
57 provider, its officers, employees, assigns or agents, be liable for any form of civil damages or  
58 criminal liability which directly or indirectly result from, or is caused by, an act or omission in  
59 the development, design, installation, operation, maintenance, performance or provision of 911  
60 service or other emergency wireless two- and three-digit wireless numbers, unless said acts or  
61 omissions constitute gross negligence, recklessness or intentional misconduct. Nor shall any  
62 wireless service provider, its officers, employees, assigns, or agents be liable for any form of  
63 civil damages or criminal liability which directly or indirectly result from, or is caused by, the  
64 release of subscriber information to any governmental entity as required under the provisions of  
65 this act unless the release constitutes gross negligence, recklessness or intentional misconduct.

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

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

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

☐ YES ☐ NO

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

3. If a majority of the votes cast on the ballot measure by the qualified voters voting thereon are in favor of such measure, then the office of administration shall be authorized to establish a fee pursuant to section 190.430, and the fee shall be effective on January 1, 1999, or the first day of the month occurring at least thirty days after the approval of the ballot measure. If a majority of the votes cast on the ballot measure by the qualified voters voting thereon are opposed to the measure, then the office of administration shall have no power to establish the fee unless and until the measure is approved.]

Section B. Section A of this act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on the Tuesday immediately following the first Monday in November, 2004, or at a special election to be called by the governor for that purpose, pursuant to the laws and constitutional provisions of this state applicable to general elections and the submission of referendum measures by initiative petition, and it shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.