

FIRST REGULAR SESSION

HOUSE BILL NO. 1156

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor) AND JONES (117) (Co-sponsor).

1571L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 190.400, 190.410, 190.420, 190.430, and 190.440, RSMo, and to enact in lieu thereof five new sections relating to emergency service response.

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Section A. Sections 190.400, 190.410, 190.420, 190.430, and 190.440, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 190.425, 190.426, 190.427, 190.430, and 190.440, to read as follows:

190.425. 1. As used in sections 190.425 to 190.440, the following terms mean:

- (1) "911", the primary emergency telephone number within the enhanced 911 system;**
- (2) "Board", the enhanced 911 communications provider advisory board;**
- (3) "Fund", the enhanced 911 communications fund established in section 190.426;**
- (4) "Public safety answering point", the location at which 911 calls are initially answered;**
- (5) "Enhanced 911 communications provider", all ILEC, CLEC, CMRS, and interconnected VoIP providers;**
- (6) "Emergency telephone service", a telephone system utilizing a single three digit number "911" for reporting police, fire, medical, or other emergency;**
- (7) "Enhanced 911", a telephone system which includes network switching, database, and public safety answering point premise elements capable of providing automatic location identification data, selective routing, selective transfer, fixed transfer, and a call back number, and includes any enhanced 911 service so designated by the**

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

16 **Federal Communications Commission in its Report and Order in WC Docket Nos. 04-36**
17 **and 05-196, or any successor proceeding;**

18 **(8) "Enhanced 911 system service provider", an entity that provides systems and**
19 **support necessary to enable 911 calling for one or more public safety answering points**
20 **(PSAPs) in a specific geographic area;**

21 **(9) "Voice over Internet protocol" or "VoIP", any of a family of transmission**
22 **technologies for delivery of voice communications over the Internet or other packet-**
23 **switched networks.**

24 **2. There is hereby created in the department of public safety the "Enhanced 911**
25 **Communications Provider Advisory Board", which shall meet no fewer than four times per**
26 **year, and shall consist of twelve members appointed by the governor as follows:**

27 **(1) The director of the department of public safety who shall be a permanent**
28 **member of the board, and who shall serve as the chair of the board;**

29 **(2) Two members of the general assembly, one from the house of representatives**
30 **and one from the senate;**

31 **(3) Two public safety officers, which shall be appointed from a law enforcement**
32 **officer, a firefighter, and an emergency medical technician;**

33 **(4) Two public safety answering point administrators, who shall be recommended**
34 **by the Missouri Association of Counties and shall be members of both the Missouri chapter**
35 **of the Association of Public-Safety Communications Officials and of the National**
36 **Emergency Number Association. One such administrator shall represent a county of the**
37 **first classification, and one shall represent a county of the third classification;**

38 **(5) Three members to be appointed from the enhanced 911 communications**
39 **providers, which shall include one from an ILEC, one from a CMRS provider, and one**
40 **from a CLEC/VoIP;**

41 **(6) Two members as selected by the governor.**

42

43 **No more than one member of the board shall represent any single enhanced 911**
44 **communications provider or any single law enforcement agency, fire protection**
45 **organization, or emergency medical technician organization.**

46 **3. Upon the initial appointment, four members of the board shall serve a four-year**
47 **term, four members shall serve a three-year term, and four members shall serve a two-year**
48 **term, as designated by the governor. After the initial terms have expired, members shall**
49 **serve a four-year term. No member shall be appointed to more than two successive terms.**
50 **Vacancies shall be filled in the same manner as the initial appointment. Members shall**

51 serve without compensation, but may be reimbursed for actual and necessary expenses in
52 carrying out their duties.

53 **4. The board shall have the following powers and duties:**

54 **(1) To provide coordination, support, and technical assistance to public safety**
55 **answering points to promote the deployment of 911 systems in this state;**

56 **(2) To provide coordination and support for educational opportunities related to**
57 **911 issues in cooperation with the governor's advisory committee for 911 service oversight;**

58 **(3) To advocate for issues related to 911 system functions, features, and operations**
59 **to improve the delivery of 911 services to the residents of and visitors to the state;**

60 **(4) To coordinate input from the state at national forums and associations to ensure**
61 **that policies related to 911 systems and services are consistent with the policies of the 911**
62 **community in the state;**

63 **(5) To work cooperatively with the state 911 coordinator to enhance 911 services**
64 **in the state;**

65 **(6) To prepare and submit an annual report by September thirtieth to the**
66 **governor, the speaker of the house of representatives, and the president pro tempore of the**
67 **senate, that contains the following:**

68 **(a) The immediately preceding fiscal year's quarterly and annual receipts and**
69 **disbursements of moneys in the fund;**

70 **(b) The purposes for which disbursements were made;**

71 **(c) The total number of public safety answering points in the state;**

72 **(d) The annual reduction in the number of public safety answering points;**

73 **(e) The availability and status of implementation of 911 service in the state;**

74 **(f) Call volumes provided by landline providers, wireless telephones, voice over**
75 **Internet protocol services, and other alternative services;**

76 **(7) To work towards new methods and plans to best use 911 resources in the state;**

77 **(8) To establish a schedule for implementing or improving 911 service by service**
78 **area;**

79 **(9) To administer the fund and to set priorities for disbursements of revenues from**
80 **the fund to public safety answering points to implement 911 services in the most advanced,**
81 **efficient, and cost-effective manner.**

82 **5. Within twelve months of the establishment of the board, the board shall submit**
83 **to the general assembly the board's recommendation for the total number of public safety**
84 **answering points for each county of the first, second, and third classification, and each**
85 **large municipality.**

190.426. 1. All fees collected under sections 190.425 to 190.440 by enhanced 911 communications service providers shall be remitted to the director of the department of revenue on a quarterly basis. Revenues collected and deposited into the fund shall be used by the board in the following manner:

(1) Sixty percent of the revenues shall be remitted to the jurisdiction from which the fees were collected to reimburse public safety answering points for labor costs, utilities, and equipment purchases to improve the coverage, redundant routes, interselective routing, and call transfer, to improve response time, and overall service of the public safety answering point. Such revenues shall be used for the operation of 911 systems, including expenses to implement 911 systems in counties that have no public safety answering points, technology upgrades to existing public safety answering points for wireless telephone identification systems, labor costs, and utility costs;

(2) Forty percent of the revenues shall be used for a grant program administered by the board to allow public safety answering points to establish or upgrade 911 systems which will include technology upgrades for Next Gen or any other upgrades;

(3) All fees except the one percent withheld by communications providers for their administrative expenses and no more than five percent retained and utilized by the board for administrative expenses shall be remitted to the board as contained in subdivisions (1) and (2) of this subsection.

2. There is hereby created in the state treasury the "Enhanced 911 Communications Fund", which shall consist of money collected under sections 190.425 to 190.440. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of sections 190.425 to 190.440. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. Any costs for administering any program including travel and related expenses for fund meeting of the advisory board, as created under sections 190.425 to 190.440 shall be paid from the five percent fee collected to administer the fund.

4. Unexpended balances in the fund shall be used to fund future enhanced 911 communications systems needs, or to temporarily suspend the 911 surcharge imposed under sections 190.425 to 190.440, unless the board determines that such unexpended balances shall be used to build public safety infrastructure or to support interoperability

37 needs, thereby reducing expenses to public safety answering points for network charges
38 and assisting in the eventual consolidation of public safety answering points.

39 **5. No revenues in the fund shall be provided or transferred to the general revenue**
40 **fund of any county, city, town, or village.**

190.427. 1. All public safety answering points shall develop and submit to the
2 **board a plan to network and consolidate public safety answering points together to create**
3 **the most effective, efficient, and streamlined public safety answering point use within each**
4 **county. The board may withhold grants from the fund until the public safety answering**
5 **points within each county submit a plan for such consolidation to the board, demonstrates**
6 **that the public safety answering points in the county are working toward the consolidation.**
7 **Such plans should demonstrate that the public safety answering points are working**
8 **together to consolidate into no more than one public safety answering point per county**
9 **within three years. One public safety answering point shall receive funding in each county**
10 **of the third classification. Two public safety answering points shall receive funding under**
11 **this section in each county of the first or second classification. Three public safety**
12 **answering points shall receive funding in each county having a charter form of**
13 **government. Notwithstanding any other provision of law to the contrary, no proprietary**
14 **information submitted under this section shall be subject to subpoena or otherwise released**
15 **to any person other than to the submitting wireless service provider. General information**
16 **collected under this section shall only be released or published in aggregate amounts which**
17 **do not identify or allow identification of numbers of subscribers or revenues attributable**
18 **to an individual wireless service provider.**

19 **2. The board shall review the total revenues collected from wireless 911 surcharges**
20 **based on the board's third annual audit. Twenty-four months from the first collection of**
21 **the wireless surcharge, the board shall prepare a report comparing the total annual**
22 **statewide surcharges collected from landline subscribers and the total annual statewide**
23 **wireless surcharges. After the third year of collecting such charges, all landline**
24 **surcharges, VoIP, alternative services, and wireless surcharges shall be levied in an equal**
25 **amount.**

26 **3. Any county that receives funding under subdivision (1) of subsection 1 of section**
27 **190.426 shall provide annual reports to the board showing that the county needs such level**
28 **of funding. Counties that improve public safety answering points with updated equipment**
29 **and technology shall be analyzed by the board to determine whether the county's public**
30 **safety answering point is effective and efficient enough to decrease such level of funding.**
31 **If the level of funding to any county is decreased under this subsection, the revenues that**

32 are not disbursed to such county shall remain in the fund to reduce or suspend the
33 surcharge fee as determined by the board.

34 4. Any county that imposes local taxes to fund public service answering points may
35 receive reimbursement from the fund for labor, utility, and technology upgrade costs,
36 provided that no more than one public service answering point per county shall receive
37 such funding. A county may impose additional taxes for 911 and use both the additional
38 taxes and disbursements from the fund for the 911 operation.

39 5. The board may promulgate rules to implement the provisions of sections 190.425
40 to 190.440. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
41 that is created under the authority delegated in this section shall become effective only if
42 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
43 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
44 and if any of the powers vested with the general assembly under chapter 536, RSMo, to
45 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
46 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
47 after August 28, 2009, shall be invalid and void.

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] **twenty-five**
3 cents per [wireless telephone number] **access to a public safety answering point** per month to
4 be collected by [wireless] **the enhanced 911 communications** service providers from [wireless]
5 **each service [customers] customer. The twenty-five cent 911 surcharge shall be submitted**
6 **to the voters of the state and, if a majority of such voters fail to pass the increase the**
7 **surcharge shall remain at the existing level.**

8 2. The office of administration shall promulgate rules and regulations **as requested by**
9 **the board** to administer the provisions of sections [190.400] **190.425** to 190.440. Any rule or
10 portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant
11 to the authority delegated in sections 190.400 to 190.440 shall become effective only if it has
12 been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority
13 delegated prior to July 2, 1998, is of no force and effect and repealed; however, nothing in this
14 section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to
15 July 2, 1998, if it fully complied with the provisions of chapter 536, RSMo. This section and
16 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
17 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
18 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
19 proposed or adopted after July 2, 1998, shall be invalid and void.

20 3. The office of administration is authorized to [administer the fund and to] distribute
21 the moneys in the [wireless service provider enhanced 911 service] **enhanced 911**
22 **communications** fund for **the following** approved expenditures as [follows] **submitted by the**
23 **board:**

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

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

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

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

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

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

38 (3) For the reimbursement of actual expenditures for equipment for implementation of
39 [wireless] enhanced 911 service by public safety answering points [to the extent that funds are
40 available, provided that ten percent of funds distributed to public safety answering points shall
41 be distributed in equal amounts to each public safety answering point participating in enhanced
42 911 service;] .

43 [(4)] **4.** Notwithstanding any other provision of the law, no proprietary information
44 submitted pursuant to this section shall be subject to subpoena or otherwise released to any
45 person other than to the submitting [wireless] **enhanced 911 communications** service provider,
46 without the express permission of [said wireless] **such enhanced 911 communications** service
47 provider. General information collected pursuant to this section shall only be released or
48 published in aggregate amounts which do not identify or allow identification of numbers of
49 subscribers or revenues attributable to an individual [wireless] **enhanced 911 communications**
50 service provider.

51 [4. Wireless service] **5. Enhanced 911 communications** providers are entitled to retain
52 one percent of the surcharge money they collect for administrative costs associated with billing
53 and collection of the surcharge. **Every remittance to the director of revenue that is not paid**
54 **within thirty days of the due date by the service provider shall accrue interest at the rate**
55 **of one percent per month for which such payment is overdue.**

56 [5.] 6. No more than five percent of the moneys in the fund, subject to appropriation by
57 the general assembly, shall be retained by the office of administration for reimbursement of the
58 costs of overseeing the fund and for the actual and necessary expenses of the board.

59 [6.] 7. The [office of administration] **board** shall review the distribution formula once
60 every year and may adjust the amount of the fee within the limits of this section, as determined
61 necessary. **The board shall review the total revenues collected from wireless 911 surcharges**
62 **based on the board's third annual audit. Twenty-four months from the first collection of**
63 **the wireless surcharge, the board shall prepare a report comparing the total annual**
64 **statewide surcharges collected from landline subscribers and the total annual statewide**
65 **wireless surcharges. After the third year of collecting such charges, all landline surcharges**
66 **and wireless surcharges shall be levied in an equal amount.**

67 [7.] 8. The provisions of sections 190.307 and 190.308 shall be applicable to programs
68 and services authorized by sections [190.400] **190.425** to 190.440.

69 [8.] 9. Notwithstanding any other provision of the law, in no event shall any [wireless]
70 **enhanced 911 communications** service provider, its officers, employees, assigns or agents, be
71 liable for any form of civil damages or criminal liability which directly or indirectly result from,
72 or is caused by, an act or omission in the development, design, installation, operation,
73 maintenance, performance or provision of [911 service or other emergency wireless two- and
74 three-digit wireless numbers] **a public safety answering point**, unless said acts or omissions
75 constitute gross negligence, recklessness or intentional misconduct. Nor shall any [wireless]
76 **enhanced 911 communications** service provider, its officers, employees, assigns, or agents be
77 liable for any form of civil damages or criminal liability which directly or indirectly result from,
78 or is caused by, the release of subscriber information to any governmental entity as required
79 under the provisions of this act unless the release constitutes gross negligence, recklessness or
80 intentional misconduct.

81 **10. The state auditor shall have the authority to perform annual audits of receipts**
82 **and expenditures of fees collected under this section to determine whether such fees are**
83 **properly administered for the operational costs of administering a public safety answering**
84 **point, and that no 911 surcharge funds are improperly transferred to any general revenue**
85 **account.**

190.440. 1. The office of administration shall not be authorized to establish a fee
2 pursuant to the authority granted in section 190.430 unless a ballot measure is submitted and
3 approved by the voters of this state. The ballot measure shall be submitted by the secretary of
4 state for approval or rejection at the general election held and conducted on the Tuesday
5 immediately following the first Monday in November, [1998] **2009**, or at a special election to
6 be called by the governor on the ballot measure. If the measure is rejected at such general or

7 special election, the measure may be resubmitted at each subsequent general election, or may be
8 resubmitted at any subsequent special election called by the governor on the ballot measure, until
9 such measure is approved.

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

12 Shall the Missouri Office of Administration be authorized to establish a fee of up to
13 [fifty] **twenty-five** cents per month to be charged every [wireless] telephone number for the
14 purpose of funding [wireless] enhanced 911 service?

15 ☐ YES ☐ NO

16

17 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed
18 to the question, place an "X" in the box opposite "No".] **The twenty-five cent 911 surcharge**
19 **shall be submitted to the voters of the state and, if a majority of such voters fail to pass the**
20 **increase the surcharge shall remain at the existing level.**

21 3. If a majority of the votes cast on the ballot measure by the qualified voters voting
22 thereon are in favor of such measure, then the office of administration shall be authorized to
23 establish a fee pursuant to section 190.430, and the fee shall be effective on January 1, [1999]
24 **2010**, or the first day of the month occurring at least thirty days after the approval of the ballot
25 measure. If a majority of the votes cast on the ballot measure by the qualified voters voting
26 thereon are opposed to the measure, then the office of administration shall have no power to
27 establish the fee unless and until the measure is approved.

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

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

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

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

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

13 (5) "Wireless service provider", a provider of commercial mobile service
14 pursuant to Section 332(d) of the Federal Telecommunications Act of 1996 (47
15 U.S.C. Section 151 et seq).]
16

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

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

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

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

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

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

3. The board shall do the following:

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

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

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

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

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

2 [190.420. 1. There is hereby established in the state treasury a fund to be
3 known as the "Wireless Service Provider Enhanced 911 Service Fund". All fees
4 collected pursuant to sections 190.400 to 190.440 by wireless service providers
5 shall be remitted to the director of the department of revenue. The director shall
6 remit such payments 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
9 for the purpose of reimbursing expenditures actually incurred in the
10 implementation and operation of the wireless service provider enhanced 911
11 system.

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

✓