

## SENATE BILL No. 150

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DIGEST OF SB 150 (Updated January 27, 1998 5:16 pm - DI 93)

**Citations Affected:** IC 36-8; noncode.

**Synopsis:** Emergency wireless 911 system. Creates the wireless 911 advisory board composed of the treasurer of state and members appointed by the governor after considering the recommendations of the Association of Public Safety Communication Officials (APCO), the National Emergency Number Association (NENA), and the Commercial Mobile Radio Service (CMRS) providers. Provides that the board is a body corporate and politic. Requires the board to levy a monthly fee on each CMRS telephone number (other than a government telephone number) that has a billing address in the state. Requires the board to create the wireless emergency telephone system fund for the purpose of creating and maintaining an enhanced wireless 911 system. Prescribes the manner in which money in the fund must be managed. Allows CMRS providers to keep 2% of the fee collected to defray administrative costs. Requires a CMRS provider to have a plan  
(Continued next page)

**Effective:** Upon passage.

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**Meeks, Lewis, Howard**

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January 6, 1998, read first time and referred to Committee on Commerce and Consumer Affairs.

January 22, 1998, amended, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

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for cost recovery approved by the board. Limits the amount of an invoice that the board may reimburse a CMRS provider to 125% of the amount contributed by the provider. Allows the board to have a PSAP or a CMRS provider audited if the board receives a written complaint that the PSAP or CMRS provider is using money from the fund improperly. Requires the board to reduce the fee to reflect the actual costs of the PSAP and CMRS providers if an audit reveals that money from the fund is being used improperly. Prescribes purposes for which CMRS providers and public safety access points may use money from the fund. Provides that a PSAP, a CMRS provider, a political subdivision, a local exchange company, an employee, an officer, a director, or an agent of these entities, and the board are immune from civil and criminal liability resulting from losses relating to establishing, developing, implementing, maintaining, operating, or providing wireless 911 service. Prohibits the connection of automated 911 alerting devices to a wireless 911 service supplier's network. Makes using wireless emergency telephone service for a purpose other than obtaining public safety assistance or to bypass CMRS charges a Class A misdemeanor and enhances the offense to a Class D felony if a person obtains service from the use with a value of at least \$100.

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Reprinted  
January 28, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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## SENATE BILL No. 150

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-8-16.5 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]:

4 **Chapter 16.5. Enhanced Wireless Emergency Telephone Service**  
5 **Sec. 1. As used in this chapter, "APCO" refers to the Indiana**  
6 **chapter of the Association of Public Safety Communication**  
7 **Officials International.**

8 **Sec. 2. As used in this chapter, "automatic location**  
9 **identification" means a wireless enhanced 911 service capability**  
10 **that provides pseudo-automatic number identification that can be**  
11 **used to identify a specific cell site transmitting a 911 call.**

12 **Sec. 3. As used in this chapter, "automatic number**  
13 **identification" means a wireless enhanced 911 service capability**  
14 **that enables the transmission of the ten (10) digit mobile handset**  
15 **telephone number used to place a 911 call.**

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1           **Sec. 4.** As used in this chapter, "board" refers to the wireless  
2 enhanced 911 advisory board established by section 18 of this  
3 chapter.

4           **Sec. 5.** As used in this chapter, "CMRS" refers to the  
5 commercial mobile radio service (as defined by 47 U.S.C.  
6 332(d)(1)). The term includes the following:

- 7           (1) Services commonly referred to as wireless.  
8           (2) Services provided by a wireless real time two-way voice  
9 communication device, including radio-telephone  
10 communications used in:  
11           (A) cellular telephone service;  
12           (B) personal communications service; or  
13           (C) the functional or competitive equivalent of a  
14 radio-telephone communications line used in:  
15           (i) cellular telephone service;  
16           (ii) a personal communications service; or  
17           (iii) a network radio access line.

18           **Sec. 6.** As used in this chapter, "CMRS provider" refers to a  
19 person or entity that provides CMRS service. The term includes  
20 facilities based and nonfacilities based resellers.

21           **Sec. 7.** As used in this chapter, "FCC order" refers to the order  
22 of the Federal Communications Commission, FCC Docket No.  
23 94-102, adopted June 12, 1996, with an effective date of October 1,  
24 1996.

25           **Sec. 8.** As used in this chapter, "fund" refers to the wireless  
26 emergency telephone system fund established under section 21(a)  
27 of this chapter.

28           **Sec. 9.** As used in this chapter, "mobile telephone number"  
29 means the ten (10) digit number assigned to a CMRS mobile phone.

30           **Sec. 10.** As used in this chapter, "NENA" refers to the Indiana  
31 chapter of the National Emergency Number Association.

32           **Sec. 11.** As used in this chapter, "population" means the  
33 population as reported by the most recent official United States  
34 census.

35           **Sec. 12.** As used in this chapter, "proprietary information"  
36 includes the following:

- 37           (1) Customer lists and related information.  
38           (2) Technology descriptions, technical information, or trade  
39 secrets (as defined by IC 24-2-3-2).  
40           (3) Information concerning the actual or developmental costs  
41 of wireless enhanced 911 systems that are developed,

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- 1 produced, or received internally by a CMRS provider or by  
 2 a CMRS provider's employees, directors, officers, or agents.
- 3 **Sec. 13.** As used in this chapter, "PSAP" refers to the public  
 4 safety answering point that is the public safety agency that receives  
 5 incoming 911 calls and dispatches appropriate public safety  
 6 agencies to respond to the calls.
- 7 **Sec. 14.** As used in this chapter, "subscriber" refers to a  
 8 subscriber for CMRS service.
- 9 **Sec. 15.** As used in this chapter, "pseudo-ANI" refers to  
 10 pseudo-automatic number identification providing a wireless  
 11 enhanced 911 service capability enabling the transmission of the  
 12 seven (7) or ten (10) digit number assigned to a specific cell site or  
 13 cell face and used to identify the approximate location of a wireless  
 14 caller.
- 15 **Sec. 16.** As used in this chapter, "wireless 911" means an  
 16 emergency telephone system that:
- 17 (1) provides a CMRS user with the ability to reach emergency  
 18 services by dialing the digits nine (9) one (1) one (1); and  
 19 (2) is complimentary to a wireline enhanced emergency  
 20 telephone system (as defined in IC 36-8-16-2).
- 21 **Sec. 17.** (a) The wireless board, region 1, is the area comprising  
 22 Adams, Allen, Blackford, Dekalb, Delaware, Elkhart, Grant,  
 23 Huntington, Jay, Kosciusko, LaGrange, Madison, Miami, Noble,  
 24 Randolph, Steuben, Wabash, Wells, and Whitley counties.
- 25 (b) The wireless board, region 2, is the area comprising Benton,  
 26 Carroll, Cass, Clinton, Fountain, Fulton, Howard, Jasper, Lake,  
 27 LaPorte, Marshall, Montgomery, Newton, Porter, Pulaski, St.  
 28 Joseph, Starke, Tippecanoe, Tipton, Warren, and White counties.
- 29 (c) The wireless board, region 3, is the area comprising Clay,  
 30 Crawford, Daviess, Dubois, Gibson, Greene, Knox, Lawrence,  
 31 Martin, Monroe, Orange, Owen, Park, Perry, Pike, Posey, Putnam,  
 32 Spencer, Sullivan, Vanderburgh, Vermillion, Vigo, and Warrick  
 33 counties.
- 34 (d) The wireless board, region 4, is the area comprising  
 35 Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd,  
 36 Franklin, Jackson, Jefferson, Jennings, Harrison, Henry, Ohio,  
 37 Ripley, Rush, Scott, Switzerland, Union, Washington, and Wayne  
 38 counties.
- 39 (e) The wireless board, region 5, is the area comprising Boone,  
 40 Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, and  
 41 Shelby counties.
- 42 **Sec. 18.** (a) The wireless enhanced 911 advisory board is



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1 established. The board is a body corporate and politic, and though  
 2 it is separate from the state, the exercise by the board of its powers  
 3 constitutes an essential governmental function.

4 (b) The following recommendations must be made to the  
 5 governor concerning the membership of the board:

6 (1) The executive committees of NENA and APCO shall  
 7 jointly recommend one (1) individual from each of the five (5)  
 8 wireless board regions established by section 17 of this  
 9 chapter.

10 (2) The CMRS providers authorized to provide CMRS in  
 11 Indiana shall jointly recommend five (5) individuals.

12 (c) The board consists of the following eleven (11) members:

13 (1) The treasurer of state or the treasurer's designee. The  
 14 treasurer of state or the treasurer's designee is chairperson of  
 15 the board for a term concurrent with the treasurer of state's  
 16 term of office. However, the treasurer of state's designee  
 17 serves at the pleasure of the treasurer of state. The treasurer  
 18 of state or the treasurer's designee may vote on an issue  
 19 before the board only to break a tie vote.

20 (2) Five (5) members for a term of three (3) years who are  
 21 appointed by the governor after the governor considers the  
 22 recommendations of the executive committees of NENA and  
 23 APCO that are submitted under subsection (b)(1).

24 (3) Five (5) members for a term of three (3) years who are  
 25 appointed by the governor after considering the  
 26 recommendations of the CMRS providers that are submitted  
 27 under subsection (b)(2). A member's position may be filled by  
 28 the member's designee who serves at the pleasure of the  
 29 member.

30 (d) A vacancy on the board is filled for the vacating member's  
 31 unexpired term in the same manner as the original appointment.

32 (e) A member may not serve more than two (2) consecutive  
 33 three (3) year terms on the board.

34 (f) Each member appointed under subsection (c)(2) or (c)(3)  
 35 shall submit the name of a designee to the board. The board shall  
 36 maintain a list of approved designees. A member appointed under  
 37 subsection (c)(2) or (c)(3) may appoint a listed designee to fill the  
 38 member's position. The designee serves at the pleasure of the  
 39 appointing member.

40 (g) A member may vote by proxy through another member.

41 Sec. 19. A majority of the members of the board constitutes a

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1 quorum for purposes of taking action. The board may take action  
2 approved by a majority of the members of the board.

3 Sec. 20. (a) Each member of the board who is not a state  
4 employee is not entitled to receive the minimum salary per diem  
5 provided by IC 4-10-11-2.1(b). The member is, however, entitled to  
6 reimbursement for traveling expenses as provided under  
7 IC 4-13-1-4 and other expenses actually incurred in connection  
8 with the member's duties as provided in the state policies and  
9 procedures established by the Indiana department of  
10 administration and approved by the budget agency.

11 (b) Each member of the board who is a state employee is entitled  
12 to reimbursement for travel expenses as provided under  
13 IC 4-13-1-4 and other expenses actually incurred in connection  
14 with the member's duties as provided in the state travel policies  
15 and procedures established by the Indiana department of  
16 administration and approved by the budget agency.

17 Sec. 21. (a) The wireless emergency telephone system fund is  
18 established for the purpose of creating and maintaining an  
19 enhanced wireless 911 system.

20 (b) The expenses of administering the fund must be paid from  
21 money in the fund.

22 Sec. 22. The fund consists of the following:

- 23 (1) Service charges assessed on CMRS users in the state under
- 24 section 25 of this chapter.
- 25 (2) Appropriations made by the general assembly.
- 26 (3) Grants and gifts intended for deposit in the fund.
- 27 (4) Interest, premiums, gains, or other earnings on the fund.

28 Sec. 23. (a) The board may invest money in the fund in any of  
29 the following:

- 30 (1) Securities of the United States government and federal
- 31 agencies, subject to the following conditions:
- 32 (A) Securities issued by the United States government may
- 33 be purchased and held up to one hundred percent (100%)
- 34 of the fund.
- 35 (B) Securities issued by federal agencies that are
- 36 guaranteed by the United States government with respect
- 37 to payment of principal and interest may be purchased and
- 38 held up to fifty percent (50%) of the fund.
- 39 (C) Securities issued by the following federal agencies that
- 40 are not guaranteed by the United States government as to
- 41 principal and interest may be purchased and held up to
- 42 twenty-five percent (25%) of the fund:



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- 1 (i) Federal Land Banks.  
 2 (ii) Federal Home Loan Banks.  
 3 (iii) Federal Home Loan Mortgage Corporation.  
 4 (iv) Bank for Cooperatives.  
 5 (v) Federal Intermediate Credit Banks.  
 6 (vi) Federal Farm Credit Banks.
- 7 (2) Corporate bonds, notes, and debentures, subject to the  
 8 following conditions:  
 9 (A) Maximum participation in any issue is limited to seven  
 10 percent (7%) of the total issue.  
 11 (B) The board shall establish minimum quality rating  
 12 standards and maximum purchase amount standards for  
 13 corporate issues.
- 14 (3) Investments maturing in one (1) year or less, subject to the  
 15 following conditions:  
 16 (A) These investments must be United States Treasury  
 17 obligations, repurchase agreements secured by United  
 18 States Treasury obligations, Prime-1 commercial paper,  
 19 and certificates of deposit and banker's acceptance  
 20 approved by banks' trust investment committees.  
 21 (B) The maximum amount may not exceed fifty percent  
 22 (50%) of the fund.
- 23 (4) Interest bearing deposit accounts (as defined in  
 24 IC 5-13-4-7).
- 25 (b) Whenever the quality, maturity, and yield of an investment  
 26 in an Indiana corporation or in a corporation that does business in  
 27 Indiana are equal to or better than similar investments in other  
 28 corporations, preference shall be given to investment in the  
 29 Indiana corporation or in the corporation that does business in  
 30 Indiana.
- 31 **Sec. 24.** The board shall select a third party to audit the fund  
 32 every two (2) years to determine whether the fund is being  
 33 managed in accordance with this chapter. The third party auditor  
 34 shall provide the audit to the board to use in determining whether  
 35 to adjust the emergency wireless 911 fee under section 26 of this  
 36 chapter. The board shall pay for an audit by the third party  
 37 auditor as an administrative cost of the board. If the third party  
 38 auditor finds that the wireless enhanced 911 fee structure does not  
 39 reflect the actual costs required by the PSAPs and CMRS  
 40 providers, the board shall reduce the fee to reflect the actual costs  
 41 required by the PSAPs and CMRS providers.



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1           **Sec. 25.** Except as provided in section 34 of this chapter, the  
2 board shall assess a monthly emergency wireless enhanced 911 fee  
3 on each CMRS mobile telephone number that has a billing address  
4 in Indiana.

5           **Sec. 26.** The board may adjust the emergency wireless enhanced  
6 911 fee that is assessed under section 25 of this chapter. The board  
7 shall assess the fees at rates that ensure full recovery over a  
8 reasonable period of time of costs incurred by CMRS providers  
9 and PSAPs to develop and maintain an enhanced wireless 911  
10 system. The fees may not:

- 11           (1) be raised or lowered more than one (1) time in a calendar  
12 year;
- 13           (2) be raised more than seven cents (\$0.07) by an adjustment;
- 14           or
- 15           (3) exceed one dollar (\$1) per month for each telephone  
16 number.

17           **Sec. 27.** The board may retain an independent, third party  
18 accounting firm for purposes of processing checks and distributing  
19 funds as directed by the board and as allowed by this chapter.

20           **Sec. 28. (a)** The board may do the following to implement this  
21 chapter:

- 22           (1) Enter into contracts, including contracts:
  - 23           (A) for professional services;
  - 24           (B) for purchase of supplies or services; and
  - 25           (C) to acquire office space.
- 26           (2) Hire staff.
- 27           (3) Adopt rules under IC 4-22-2.
- 28           (4) Take other necessary or convenient actions to implement  
29 this chapter that are not inconsistent with Indiana law.

30           **Sec. 29.** An additional fee relating to the provision of wireless  
31 911 service may not be levied by a state agency or local unit of  
32 government.

33           **Sec. 30.** Except as provided in section 34 of this chapter, each  
34 CMRS provider, as part of its monthly billing process, shall bill  
35 each CMRS mobile telephone number for the emergency wireless  
36 enhanced 911 fee. The CMRS provider may list the fee as a  
37 separate line item on each bill. If a CMRS provider receives a  
38 partial payment for a monthly bill from a CMRS subscriber, the  
39 CMRS provider shall apply the payment against the amount the  
40 CMRS subscriber owes to the CMRS provider before applying the  
41 payment against the fee.

42           **Sec. 31.** A CMRS provider, as part of its monthly billing

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1 process, may not pro-rate the monthly emergency wireless  
2 enhanced 911 fee collected from the subscriber.

3 **Sec. 32.** A CMRS provider is not required to take legal action to  
4 enforce the collection of the emergency wireless enhanced 911 fee  
5 for which a subscriber is billed. However, a collection action may  
6 be initiated by the board. A court finding for the board in the  
7 action may award reasonable costs and attorney's fees associated  
8 with the collection action.

9 **Sec. 33.** The wireless enhanced 911 fee is exempt from state and  
10 local taxation.

11 **Sec. 34.** A CMRS number is exempt from the emergency  
12 wireless enhanced 911 fee if the subscriber is any of the following:

- 13 (1) The federal government or an agency of the federal  
14 government.  
15 (2) The state or an agency or instrumentality of the state.  
16 (3) A political subdivision (as defined in IC 36-1-2-13) or an  
17 agency of a political subdivision.

18 **Sec. 35.** A CMRS provider may keep two percent (2%) of the  
19 emergency wireless enhanced 911 fee collected each month from  
20 each subscriber for the purpose of defraying the administrative  
21 costs of collecting the fee.

22 **Sec. 36.** A fee collected by a CMRS provider under this chapter,  
23 less the administrative fee described in section 35 of this chapter,  
24 must be remitted to the board for deposit into the fund not more  
25 than sixty (60) days after the end of the calendar month in which  
26 the fee is collected.

27 **Sec. 37.** A CMRS provider may recover all of its cost of  
28 implementing enhanced wireless 911 service from the fund.

29 **Sec. 38.** To recover costs under section 37 of this chapter, a  
30 CMRS provider must submit a full, sworn, true, complete, and  
31 detailed cost recovery plan. The board must approve the plan  
32 before the CMRS provider may recover costs from the fund under  
33 section 37 of this chapter. The board may not approve an invoice  
34 if:

- 35 (1) reimbursement of a cost described in the invoice is not  
36 related to compliance with the requirements of the FCC  
37 order; or  
38 (2) payment of the invoice would result in payment of more  
39 than one hundred twenty-five percent (125%) of the total  
40 amount contributed to the fund by a CMRS provider;

41 unless the board approved the cost before it was incurred by the

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1 CMRS provider.

2 Sec. 39. Except as provided by section 26 of this chapter, the  
3 fund must be managed in the following manner:

4 (1) Three cents (\$0.03) of the emergency wireless 911 fee  
5 collected from each subscriber must be held in an interest  
6 bearing escrow account to be used for implementation of  
7 phase two (2) of the FCC order. The board shall reevaluate  
8 the fees placed into escrow not later than May 1, 2000. The  
9 board shall determine if the fee should be reduced, remain the  
10 same, or be increased based on the latest information  
11 available concerning the costs associated with phase two (2)  
12 of the FCC order.

13 (2) At least twenty-five cents (\$0.25) of the emergency wireless  
14 911 fee collected from each subscriber must be held in escrow  
15 and used to reimburse CMRS providers for the actual costs  
16 incurred by the CMRS providers in complying with the  
17 wireless 911 requirements established by the FCC order and  
18 rules that are adopted by the FCC under the FCC order,  
19 including costs and expenses incurred in designing,  
20 upgrading, purchasing, leasing, programming, installing,  
21 testing, or maintaining all necessary data, hardware, and  
22 software required to provide service as well as the costs of  
23 operating the service. Except as provided by section 38 of this  
24 chapter, the carrier may only request funds for true cost  
25 recovery. The board may increase the amount held in escrow  
26 under this subdivision not more than one (1) time a calendar  
27 year. If the board adjusts the emergency wireless 911 fee  
28 under section 26 of this chapter within a calendar year, an  
29 adjustment to the amount held in escrow under this  
30 subdivision for the calendar year must be made at that time.

31 (3) Two percent (2%) of the emergency wireless 911 fee  
32 collected from each subscriber may be used by the board to  
33 recover the board's expenses in administering this chapter.  
34 However, the board may increase this percentage at the time  
35 the board may adjust the monthly fee assessed against each  
36 CMRS mobile telephone number to allow for full recovery of  
37 administration expenses.

38 (4) Money remaining in the fund must be held in escrow and  
39 used for monthly distributions to eligible PSAPs that provide  
40 wireless enhanced 911 service and that have submitted  
41 written notice to the board. The board shall maintain a list of  
42 eligible PSAPs. The fund held in escrow under this subdivision



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must be distributed in the following manner:

(A) Ninety-eight percent (98%) must be distributed among the eligible PSAPs based upon the percentage of the state’s population (as reported in the most recent official United States census) served by each PSAP.

(B) Two percent (2%) must be distributed among the eligible PSAPs under a formula:

- (i) established by the board; and
- (ii) based on a PSAP's CMRS 911 call volume.

**Sec. 40.** To be eligible to receive distributions from the fund under section 39 of this chapter, a PSAP must comply with the wireless enhanced 911 requirements established by the FCC order and rules adopted by the FCC under the FCC order. Distribution to a PSAP must begin in the first full month after the PSAP becomes eligible.

**Sec. 41. (a)** A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service.

**(b) If:**

- (1) the board receives a written complaint alleging that a PSAP has used money received under this chapter in a manner that is inconsistent with this chapter; and
- (2) a majority of the board votes to conduct an audit of the PSAP;

the board may contract with a third party auditor to audit the PSAP to determine whether the PSAP has used money received under this chapter in a manner consistent with this chapter.

**Sec. 42. (a)** A CMRS provider shall submit to the board sworn invoices related to a request for reimbursement under section 39 of this chapter. The board may not approve an invoice for reimbursement of costs that are not related to compliance with the wireless enhanced 911 service requirements established by the FCC order and the rules adopted by the FCC under the FCC order.

**(b) If:**

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1 (1) the board receives a written complaint alleging that a  
 2 CMRS provider has used money received under this chapter  
 3 in a manner that is inconsistent with this chapter; and

4 (2) a majority of the board votes to conduct an audit of the  
 5 CMRS provider;

6 the board may contract with a third party auditor to audit the  
 7 CMRS provider to determine whether the CMRS provider has  
 8 used money received under this chapter in a manner consistent  
 9 with this chapter.

10 Sec. 43. The distribution of emergency wireless enhanced 911  
 11 funds to the PSAPs by the board must be deposited by a county  
 12 treasurer or a municipal fiscal officer in a separate fund set aside  
 13 for the purposes allowed by section 41 of this chapter. The fund  
 14 must be known as the \_\_\_\_\_ (insert name of county or  
 15 municipality) emergency telephone system fund. The county  
 16 treasurer or the municipal fiscal officer may invest money in the  
 17 fund in the same manner that other money of the county or  
 18 municipality may be invested, but income earned from the  
 19 investment must be deposited in the fund set aside under this  
 20 section.

21 Sec. 44. A CMRS provider is not required to provide wireless  
 22 911 service unless the elements requiring CMRS providers to  
 23 provide wireless 911 service under the FCC order are present.

24 Sec. 45. (a) All proprietary information submitted to the board  
 25 or the treasurer of state is confidential. Notwithstanding any other  
 26 law, proprietary information submitted under this chapter is not  
 27 subject to subpoena, and proprietary information submitted under  
 28 this chapter may not be released to a person other than to the  
 29 submitting CMRS provider without the permission of the  
 30 submitting CMRS provider.

31 (b) General information collected by the board or the treasurer  
 32 of state may be released or published only in aggregate amounts  
 33 that do not identify or allow identification of numbers of  
 34 subscribers or revenues attributable to an individual CMRS  
 35 provider.

36 Sec. 46. Notwithstanding any other law, the board, a PSAP,  
 37 political subdivision, CMRS provider, local exchange company, or  
 38 an employee, director, officer, or agent of a PSAP, political  
 39 subdivision, CMRS provider, or local exchange company is not  
 40 liable for damages in a civil action or subject to criminal  
 41 prosecution resulting from death, injury, or loss to persons or  
 42 property incurred by any person in connection with establishing,



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1 developing, implementing, maintaining, operating, and providing  
 2 wireless 911 service in compliance with the requirements  
 3 established by the FCC order and rules adopted under the FCC  
 4 order, except in the case of willful or wanton misconduct.

5 **Sec. 47. (a) A person may not use the wireless 911 service except**  
 6 **to make emergency calls that may result in dispatch of the**  
 7 **appropriate response for fire suppression and rescue, emergency**  
 8 **medical or ambulance services, hazardous material, disaster or**  
 9 **major emergency occurrences, and law enforcement activities.**

10 **(b) A person who knowingly or intentionally violates this section**  
 11 **commits a Class A misdemeanor.**

12 **Sec. 48. (a) A person may not connect an automatic alarm or**  
 13 **other automated alerting device to a wireless 911 service supplier's**  
 14 **network that:**

- 15 (1) causes the number 911 to be automatically dialed; or
- 16 (2) provides through a prerecorded message information
- 17 regarding obtaining 911 emergency services.

18 **(b) A person who knowingly or intentionally violates this section**  
 19 **commits a Class A misdemeanor.**

20 **Sec. 49. (a) Wireless emergency 911 telephone service may be**  
 21 **used only for emergency communications by the public.**

22 **(b) Except as provided in subsection (c), a person who**  
 23 **knowingly or intentionally uses or attempts to use wireless**  
 24 **emergency telephone service:**

- 25 (1) for a purpose other than obtaining public safety
- 26 assistance; or
- 27 (2) in an effort to avoid CMRS charges;

28 **commits a Class A misdemeanor.**

29 **(c) A person who:**

- 30 (1) knowingly or intentionally uses wireless emergency
- 31 telephone service in a manner prohibited by subsection (b);
- 32 and

- 33 (2) obtains CMRS service with a value of at least one hundred
- 34 dollars (\$100) from the use;

35 **commits a Class D felony.**

36 **SECTION 2. [EFFECTIVE UPON PASSAGE] (a)**  
 37 **Notwithstanding IC 36-8-16.5-18(c)(2), as added by this act, the**  
 38 **initial members appointed to the wireless 911 advisory board**  
 39 **under IC 36-8-16.5-18(c)(2) are appointed for the following terms:**

- 40 (1) Two (2) members for a term of one (1) year.
- 41 (2) Two (2) members for a term of two (2) years.



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- 1           **(3) One (1) member for a term of three (3) years.**
- 2           **(b) Notwithstanding IC 36-8-16.5-18(c)(3), as added by this act,**
- 3           **the initial members appointed to the wireless 911 advisory board**
- 4           **under IC 36-8-16.5-18(c)(3) are appointed for the following terms:**
- 5           **(1) Two (2) members for a term of one (1) year.**
- 6           **(2) Two (2) members for a term of two (2) years.**
- 7           **(3) One (1) member for a term of three (3) years.**
- 8           **(c) The initial members appointed to the wireless 911 advisory**
- 9           **board under IC 36-8-16.5-18, as added by this act, must be**
- 10           **appointed not later than the later of May 1, 1998, or sixty (60) days**
- 11           **after the day this act takes effect.**
- 12           **(d) Notwithstanding IC 36-8-16.5-26, as added by this act, the**
- 13           **board shall set the initial wireless enhanced 911 fee described by**
- 14           **IC 36-8-16.5-25, as added by this act, at sixty-five cents (\$0.65) per**
- 15           **month for each commercial mobile radio service telephone**
- 16           **number, to be imposed not later than May 1, 1998. The fee must be**
- 17           **applied uniformly throughout Indiana. The first distribution from**
- 18           **the 911 fund to the public safety answering points may not be later**
- 19           **than September 1, 1998.**
- 20           **(e) Notwithstanding IC 36-8-16.5-26, as added by this act, the**
- 21           **board may not raise the wireless enhanced 911 fee described by**
- 22           **IC 36-8-16.5-25, as added by this act, earlier than one (1) year after**
- 23           **the date this act takes effect.**
- 24           **(f) This SECTION expires July 1, 2002.**
- 25           **SECTION 3. An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as coauthor of Senate Bill 150.

MEEKS

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SENATE MOTION

Mr. President: I move that Senator Howard be added as coauthor of Senate Bill 150.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill 150, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 42, after "established." insert "**The board is a body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.**".

Page 4, line 10, before "of" delete "auditor" and insert "**treasurer**".

Page 4, line 10, delete "auditor's" and insert "**treasurer's**".

Page 4, line 10, after ". The" delete "auditor" and insert "**treasurer**".

Page 4, line 11, delete "auditor's" and insert "**treasurer's**".

Page 4, line 12, delete "auditor" and insert "**treasurer**".

Page 4, line 13, delete "auditor" and insert "**treasurer**".

Page 4, line 14, after "of the" delete "auditor" and insert "**treasurer**".

Page 4, line 14, after "The" delete "auditor" and insert "**treasurer**".

Page 4, line 15, delete "auditor's" and insert "**treasurer's**".

Page 4, between lines 30 and 31, begin a new paragraph and insert:

**"(f) Each member appointed under subsection (c)(2) or (c)(3) shall submit the name of a designee to the board. The board shall maintain a list of approved designees. A member appointed under subsection (c)(2) or (c)(3) may appoint a listed designee to fill the member's position. The designee serves at the pleasure of the appointing member.**

**(g) A member may vote by proxy through another member."**

Page 4, line 33, delete "present at a" and insert ".".

Page 4, delete line 34.

Page 5, line 9, delete "The board shall administer the fund".

Page 5, delete line 10.

Page 5, delete lines 13 through 15.

Page 5, delete lines 22 through 24, begin a new paragraph and insert:

**"Sec. 23. (a) The board may invest money in the fund in any of the following:**

**(1) Securities of the United States government and federal agencies, subject to the following conditions:**

**(A) Securities issued by the United States government may be purchased and held up to one hundred percent (100%) of the fund.**

**(B) Securities issued by federal agencies that are**

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guaranteed by the United States government with respect to payment of principal and interest may be purchased and held up to fifty percent (50%) of the fund.

(C) Securities issued by the following federal agencies that are not guaranteed by the United States government as to principal and interest may be purchased and held up to twenty-five percent (25%) of the fund:

- (i) Federal Land Banks.
- (ii) Federal Home Loan Banks.
- (iii) Federal Home Loan Mortgage Corporation.
- (iv) Bank for Cooperatives.
- (v) Federal Intermediate Credit Banks.
- (vi) Federal Farm Credit Banks.

(2) Corporate bonds, notes, and debentures, subject to the following conditions:

(A) Maximum participation in any issue is limited to seven percent (7%) of the total issue.

(B) The board shall establish minimum quality rating standards and maximum purchase amount standards for corporate issues.

(3) Investments maturing in one (1) year or less, subject to the following conditions:

(A) These investments must be United States Treasury obligations, repurchase agreements secured by United States Treasury obligations, Prime-1 commercial paper, and certificates of deposit and banker's acceptance approved by banks' trust investment committees.

(B) The maximum amount may not exceed fifty percent (50%) of the fund.

(4) Interest bearing deposit accounts (as defined in IC 5-13-4-7).

(b) Whenever the quality, maturity, and yield of an investment in an Indiana corporation or in a corporation that does business in Indiana are equal to or better than similar investments in other corporations, preference shall be given to investment in the Indiana corporation or in the corporation that does business in Indiana."

Page 5, line 25, delete "state board of accounts shall" and insert "board shall select a third party to".

Page 5, line 27, delete ", including sections 41 and 42 of this" and

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insert ". ".

Page 5, line 28, delete "chapter. The state board of accounts" and insert "**The third party auditor**".

Page 5, line 31, delete "state board of accounts" and insert "**third party auditor**".

Page 6, delete lines 10 through 11, begin a new paragraph and insert:

**"Sec. 28. (a) The board may do the following to implement this chapter:**

- (1) Enter into contracts, including contracts:**
  - (A) for professional services;**
  - (B) for purchase of supplies or services; and**
  - (C) to acquire office space.**
- (2) Hire staff.**
- (3) Adopt rules under IC 4-22-2.**
- (4) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law. "**

Page 6, line 13, after "state" insert "**agency**".

Page 6, delete lines 35 through 38, begin a new paragraph and insert:

**"Sec. 34. A CMRS number is exempt from the emergency wireless enhanced 911 fee if the subscriber is any of the following:**

- (1) The federal government or an agency of the federal government.**
- (2) The state or an agency or instrumentality of the state.**
- (3) A political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision."**

Page 7, line 17, delete "total" and insert "**more than one hundred twenty-five percent (125%) of the total amount contributed to the fund by a CMRS provider;**".

Page 7, delete lines 18 through 21.

Page 8, line 38, before "A" insert "**(a)**".

Page 9, between lines 4 and 5, begin a new paragraph and insert:

**"(b) If:**

- (1) the board receives a written complaint alleging that a PSAP has used money received under this chapter in a manner that is inconsistent with this chapter; and**
- (2) a majority of the board votes to conduct an audit of the PSAP;**

**the board may contract with a third party auditor to audit the PSAP to determine whether the PSAP has used money received under this chapter in a manner consistent with this chapter."**



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Page 9, line 5, before "A" insert "(a)".

Page 9, between lines 11 and 12, begin a new paragraph and insert:

"(b) If:

**(1) the board receives a written complaint alleging that a CMRS provider has used money received under this chapter in a manner that is inconsistent with this chapter; and**

**(2) a majority of the board votes to conduct an audit of the CMRS provider;**

**the board may contract with a third party auditor to audit the CMRS provider to determine whether the CMRS provider has used money received under this chapter in a manner consistent with this chapter."**

Page 9, line 27, delete "auditor" and insert "**treasurer**".

Page 9, line 33, delete "auditor" and insert "**treasurer**".

Page 9, line 37, after "law," insert "**the board,**".

and when so amended that said bill do pass.

(Reference is to Senate Bill 150 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 5, Nays 1.

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SENATE MOTION

Mr. President: I move that Senate Bill 150 be amended to read as follows:

Page 6, line 37, after "board." insert "**If the third party auditor finds that the wireless enhanced 911 fee structure does not reflect the actual costs required by the PSAPs and CMRS providers, the board shall reduce the fee to reflect the actual costs required by the PSAPs and CMRS providers.**".

(Reference is to Senate Bill 150 as printed January 23, 1998.)

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