

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## HOUSE ENROLLED ACT No. 1398

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 14-13-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) The commission shall prepare and adopt by majority vote an annual budget that shall be submitted to each municipality or agency appropriating money for the use of the commission. After the commission approves the budget, money may be expended only as budgeted unless a majority vote of the commission authorizes other expenditures. If money is appropriated by the commission for the use of a county, a municipality, or an agency, the money may not later be diverted from the county, municipality, or agency without the consent of the county, municipality, or agency.

(b) Any appropriated amounts remaining unexpended or unencumbered at the end of the year **may** become part of a nonreverting cumulative fund to be held in the name of the commission.

(c) The commission may authorize unbudgeted expenditures from the **nonreverting cumulative** fund by a majority vote of the commission.

(d) The commission is responsible for money the commission receives under this chapter. The state board of accounts shall:

- (1) prescribe the methods and forms for keeping; and
- (2) periodically audit;

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the accounts, records, and books of the commission.

SECTION 2. IC 36-8-16.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. A majority of the members of the board constitutes a quorum for purposes of taking action. **Except as provided in section 39(b) of this chapter**, the board may take action approved by a majority of the members of the board.

SECTION 3. IC 36-8-16.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 39. (a) Except as provided by section 26 of this chapter **and subsection (b)**, the fund must be managed in the following manner:

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

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

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

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

**(b) Notwithstanding the requirements described in subsection (a), the board may transfer money between and among the accounts in subsection (a) in accordance with the following procedures:**

**(1) A transfer must be approved by the affirmative vote of at least eight (8) board members.**

**(2) The board may make transfers only one (1) time during a calendar year.**

**(3) The board may not make a transfer that:**

**(A) impairs cost recovery by CMRS providers or PSAPs;**  
**or**

**(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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