

SENATE BILL No. 359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-26-1-5; IC 6-3.5; IC 6-8.1-15-13; IC 24-5-22-10; IC 34-30-2; IC 35-45-5-4.7; IC 36-1-10-2; IC 36-7-4-405; IC 36-8; IC 36-9-13-3.5.

Synopsis: Enhanced 911 systems. Establishes the 17 member enhanced 911 advisory board (board). Provides that the treasurer of state serves as the chair of the board. Requires the board to develop, maintain, and update an enhanced 911 state plan. Establishes the enhanced 911 system fund (fund). Provides that the board shall administer the fund. Requires the board to impose a monthly enhanced 911 fee (fee) on each standard and prepaid subscriber of voice communications service in Indiana. Provides that for purposes of the fee, "voice communications service" means the transmission, conveyance, or routing of real time, two-way voice communications, regardless of the protocol used. Provides that the amount of the initial fee is \$1. Prohibits a state agency or a political subdivision from imposing any additional fee relating to the provision of enhanced 911 service. Requires a voice communications service provider (provider) to collect the fee: (1) as part of its normal monthly billing process; or (2) at the point of sale, for new prepaid subscribers. Requires a provider to remit the fees collected to the board for deposit into the fund not more than 60 days after the end of the calendar month in which the fees are collected. Specifies the manner in which the board is to distribute money from the fund to counties containing an eligible public safety answering point (PSAP). Specifies the permissible uses for the funds distributed to an eligible PSAP. Allows a county to establish an emergency telephone notification system (system). Provides that funds distributed to the county by the board may be used
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Effective: Upon passage; July 1, 2008.

Hershman

January 14, 2008, read first time and referred to Committee on Utilities & Regulatory Affairs.



to establish and operate the system if the expenses of operating an eligible PSAP in an adequate and efficient manner have been met. Requires a provider to provide to a PSAP the necessary subscriber data to enable the PSAP to implement and operate an enhanced 911 system. Provides that proprietary information submitted to the board or the treasurer of state is confidential. Provides that after June 30, 2012, a county may not contain more than one PSAP. Requires each political subdivision or agency that operates a PSAP in a county containing more than one PSAP, not later than July 1, 2012, to enter into an interlocal agreement with every other political subdivision or agency that operates a PSAP in the same county. Provides that the interlocal agreement must: (1) provide for the staffing and funding obligations of each county, political subdivision, or agency participating in the establishment of a county or regional PSAP; and (2) be approved by the board. Repeals the statutes concerning: (1) the local monthly enhanced emergency telephone system fee; (2) the statewide monthly wireless enhanced 911 fee; and (3) emergency telephone notification systems. Provides for the expiration on July 1, 2012, of provisions that: (1) establish a public safety communications system and computer facilities district in a county having a consolidated city; and (2) allow certain other counties to establish a public safety communications systems district. Appropriates \$300,000 from the funds remaining in the state wireless emergency telephone system fund on July 1, 2008, to the department of homeland security for use in upgrading the state's emergency alert system. Specifies that the remaining funds are transferred to the new enhanced 911 system fund. Specifies that funds remaining in: (1) a county wireless emergency telephone system fund; or (2) a county or municipal wireline emergency telephone system fund; on July 1, 2008, are transferred to the county's new enhanced 911 system fund. Specifies that the funds transferred must be used first to meet any outstanding obligations incurred by the county or municipality in connection with its enhanced 911 system.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 359



A BILL FOR AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

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

- 1 SECTION 1. IC 5-26-1-5 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this article, "system"
- 3 refers to the Indiana statewide wireless public safety voice and data
- 4 communications system. The term does not include ~~the~~ **an** enhanced
- 5 ~~emergency telephone 911 system under IC 36-8-16-2.~~ **(as defined in**
- 6 **IC 36-8-16.6-7).**
- 7 SECTION 2. IC 6-3.5-1.1-25, AS ADDED BY P.L.224-2007,
- 8 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2008]: Sec. 25. (a) As used in this section, "public safety"
- 10 refers to the following:
- 11 (1) A police and law enforcement system to preserve public peace
- 12 and order.
- 13 (2) A firefighting and fire prevention system.
- 14 (3) Emergency ambulance services (as defined in
- 15 IC 16-18-2-107).
- 16 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 17 (5) Emergency action (as defined in IC 13-11-2-65).



- 1 (6) A probation department of a court.
- 2 (7) Confinement, supervision, services under a community
- 3 corrections program (as defined in IC 35-38-2.6-2), or other
- 4 correctional services for a person who has been:
 - 5 (A) diverted before a final hearing or trial under an agreement
 - 6 that is between the county prosecuting attorney and the person
 - 7 or the person's custodian, guardian, or parent and that provides
 - 8 for confinement, supervision, community corrections services,
 - 9 or other correctional services instead of a final action
 - 10 described in clause (B) or (C);
 - 11 (B) convicted of a crime; or
 - 12 (C) adjudicated as a delinquent child or a child in need of
 - 13 services.
- 14 (8) A juvenile detention facility under IC 31-31-8.
- 15 (9) A juvenile detention center under IC 31-31-9.
- 16 (10) A county jail.
- 17 (11) A communications system (as defined in IC 36-8-15-3
- 18 **before its expiration on July 1, 2012**) or an enhanced emergency
- 19 ~~telephone 911~~ system (as defined in ~~IC 36-8-16-2~~):
- 20 **IC 36-8-16.6-7**).
- 21 (12) Medical and health expenses for jail inmates and other
- 22 confined persons.
- 23 (13) Pension payments for any of the following:
 - 24 (A) A member of the fire department (as defined in
 - 25 IC 36-8-1-8) or any other employee of a fire department.
 - 26 (B) A member of the police department (as defined in
 - 27 IC 36-8-1-9), a police chief hired under a waiver under
 - 28 IC 36-8-4-6.5, or any other employee hired by a police
 - 29 department.
 - 30 (C) A county sheriff or any other member of the office of the
 - 31 county sheriff.
 - 32 (D) Other personnel employed to provide a service described
 - 33 in this section.
- 34 (b) If a county council has imposed a tax rate under section 24 of
- 35 this chapter and has imposed a tax rate under section 26 of this chapter,
- 36 the county council may also adopt an ordinance to impose an additional
- 37 tax rate under this section to provide funding for public safety.
- 38 (c) A tax rate under this section may not exceed the lesser of:
 - 39 (A) twenty-five hundredths of one percent (0.25%); or
 - 40 (B) the tax rate imposed under section 26 of this chapter.
- 41 (d) If a county council adopts an ordinance to impose a tax rate
- 42 under this section, the county auditor shall send a certified copy of the

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1 ordinance to the department and the department of local government
 2 finance by certified mail.

3 (e) A tax rate under this section is in addition to any other tax rates
 4 imposed under this chapter and does not affect the purposes for which
 5 other tax revenue under this chapter may be used.

6 (f) The county auditor shall distribute the portion of the certified
 7 distribution that is attributable to a tax rate under this section to the
 8 county and to each municipality in the county. The amount that shall
 9 be distributed to the county or municipality is equal to the result of:

10 (1) the portion of the certified distribution that is attributable to a
 11 tax rate under this section; multiplied by

12 (2) a fraction equal to:

13 (A) the attributed allocation amount (as defined in
 14 IC 6-3.5-1.1-15) of the county or municipality for the calendar
 15 year; divided by

16 (B) the sum of the attributed allocation amounts of the county
 17 and each municipality in the county for the calendar year.

18 The county auditor shall make the distributions required by this
 19 subsection not more than thirty (30) days after receiving the portion of
 20 the certified distribution that is attributable to a tax rate under this
 21 section. Tax revenue distributed to a county or municipality under this
 22 subsection must be deposited into a separate account or fund and may
 23 be appropriated by the county or municipality only for public safety
 24 purposes.

25 (g) The department of local government finance may not require a
 26 county or municipality receiving tax revenue under this section to
 27 reduce the county's or municipality's property tax levy for a particular
 28 year on account of the county's or municipality's receipt of the tax
 29 revenue.

30 (h) The tax rate under this section and the tax revenue attributable
 31 to the tax rate under this section shall not be considered for purposes
 32 of computing:

33 (1) the maximum income tax rate that may be imposed in a county
 34 under section 2 of this chapter or any other provision of this
 35 chapter;

36 (2) the maximum permissible property tax levy under STEP
 37 EIGHT of IC 6-1.1-18.5-3(b); or

38 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
 39 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5).

40 (i) The tax rate under this section may be imposed or rescinded at
 41 the same time and in the same manner that the county may impose or
 42 increase a tax rate under section 24 of this chapter.

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1 (j) The department of local government finance and the department
2 of state revenue may take any actions necessary to carry out the
3 purposes of this section.

4 SECTION 3. IC 6-3.5-6-18, AS AMENDED BY P.L.224-2007,
5 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2008]: Sec. 18. (a) The revenue a county auditor receives
7 under this chapter shall be used to:

- 8 (1) replace the amount, if any, of property tax revenue lost due to
- 9 the allowance of an increased homestead credit within the county;
- 10 (2) fund the operation of a public communications system and
- 11 computer facilities district as provided in an election, if any, made
- 12 by the county fiscal body under IC 36-8-15-19(b) **(before its**
- 13 **expiration on July 1, 2012);**
- 14 (3) fund the operation of a public transportation corporation as
- 15 provided in an election, if any, made by the county fiscal body
- 16 under IC 36-9-4-42;
- 17 (4) make payments permitted under IC 36-7-15.1-17.5;
- 18 (5) make payments permitted under subsection (i);
- 19 (6) make distributions of distributive shares to the civil taxing
- 20 units of a county; and
- 21 (7) make the distributions permitted under sections 27, 28, 29, 30,
- 22 31, 32, and 33 of this chapter.

23 (b) The county auditor shall retain from the payments of the county's
24 certified distribution, an amount equal to the revenue lost, if any, due
25 to the increase of the homestead credit within the county. This money
26 shall be distributed to the civil taxing units and school corporations of
27 the county as though they were property tax collections and in such a
28 manner that no civil taxing unit or school corporation shall suffer a net
29 revenue loss due to the allowance of an increased homestead credit.

- 30 (c) The county auditor shall retain:
- 31 (1) the amount, if any, specified by the county fiscal body for a
- 32 particular calendar year under subsection (i), IC 36-7-15.1-17.5,
- 33 IC 36-8-15-19(b) **(before its expiration on July 1, 2012),** and
- 34 IC 36-9-4-42 from the county's certified distribution for that same
- 35 calendar year; and
- 36 (2) the amount of an additional tax rate imposed under section 27,
- 37 28, 29, 30, 31, 32, or 33 of this chapter.

38 The county auditor shall distribute amounts retained under this
39 subsection to the county.

40 (d) All certified distribution revenues that are not retained and
41 distributed under subsections (b) and (c) shall be distributed to the civil
42 taxing units of the county as distributive shares.

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1 (e) The amount of distributive shares that each civil taxing unit in
 2 a county is entitled to receive during a month equals the product of the
 3 following:

4 (1) The amount of revenue that is to be distributed as distributive
 5 shares during that month; multiplied by

6 (2) A fraction. The numerator of the fraction equals the allocation
 7 amount for the civil taxing unit for the calendar year in which the
 8 month falls. The denominator of the fraction equals the sum of the
 9 allocation amounts of all the civil taxing units of the county for
 10 the calendar year in which the month falls.

11 (f) The department of local government finance shall provide each
 12 county auditor with the fractional amount of distributive shares that
 13 each civil taxing unit in the auditor's county is entitled to receive
 14 monthly under this section.

15 (g) Notwithstanding subsection (e), if a civil taxing unit of an
 16 adopting county does not impose a property tax levy that is first due
 17 and payable in a calendar year in which distributive shares are being
 18 distributed under this section, that civil taxing unit is entitled to receive
 19 a part of the revenue to be distributed as distributive shares under this
 20 section within the county. The fractional amount such a civil taxing
 21 unit is entitled to receive each month during that calendar year equals
 22 the product of the following:

23 (1) The amount to be distributed as distributive shares during that
 24 month; multiplied by

25 (2) A fraction. The numerator of the fraction equals the budget of
 26 that civil taxing unit for that calendar year. The denominator of
 27 the fraction equals the aggregate budgets of all civil taxing units
 28 of that county for that calendar year.

29 (h) If for a calendar year a civil taxing unit is allocated a part of a
 30 county's distributive shares by subsection (g), then the formula used in
 31 subsection (e) to determine all other civil taxing units' distributive
 32 shares shall be changed each month for that same year by reducing the
 33 amount to be distributed as distributive shares under subsection (e) by
 34 the amount of distributive shares allocated under subsection (g) for that
 35 same month. The department of local government finance shall make
 36 any adjustments required by this subsection and provide them to the
 37 appropriate county auditors.

38 (i) Notwithstanding any other law, a county fiscal body may pledge
 39 revenues received under this chapter (other than revenues attributable
 40 to a tax rate imposed under section 30, 31, or 32 of this chapter) to the
 41 payment of bonds or lease rentals to finance a qualified economic
 42 development tax project under IC 36-7-27 in that county or in any other

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1 county if the county fiscal body determines that the project will
2 promote significant opportunities for the gainful employment or
3 retention of employment of the county's residents.

4 SECTION 4. IC 6-3.5-6-31, AS ADDED BY P.L.224-2007,
5 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2008]: Sec. 31. (a) As used in this section, "public safety"
7 refers to the following:

8 (1) A police and law enforcement system to preserve public peace
9 and order.

10 (2) A firefighting and fire prevention system.

11 (3) Emergency ambulance services (as defined in
12 IC 16-18-2-107).

13 (4) Emergency medical services (as defined in IC 16-18-2-110).

14 (5) Emergency action (as defined in IC 13-11-2-65).

15 (6) A probation department of a court.

16 (7) Confinement, supervision, services under a community
17 corrections program (as defined in IC 35-38-2.6-2), or other
18 correctional services for a person who has been:

19 (A) diverted before a final hearing or trial under an agreement
20 that is between the county prosecuting attorney and the person
21 or the person's custodian, guardian, or parent and that provides
22 for confinement, supervision, community corrections services,
23 or other correctional services instead of a final action
24 described in clause (B) or (C);

25 (B) convicted of a crime; or

26 (C) adjudicated as a delinquent child or a child in need of
27 services.

28 (8) A juvenile detention facility under IC 31-31-8.

29 (9) A juvenile detention center under IC 31-31-9.

30 (10) A county jail.

31 (11) A communications system (as defined in IC 36-8-15-3
32 **before its expiration on July 1, 2012**) or an enhanced emergency
33 ~~telephone 911~~ system (as defined in ~~IC 36-8-16-2~~:
34 **IC 36-8-16.6-7**).

35 (12) Medical and health expenses for jail inmates and other
36 confined persons.

37 (13) Pension payments for any of the following:

38 (A) A member of the fire department (as defined in
39 IC 36-8-1-8) or any other employee of a fire department.

40 (B) A member of the police department (as defined in
41 IC 36-8-1-9), a police chief hired under a waiver under
42 IC 36-8-4-6.5, or any other employee hired by a police

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- 1 department.
- 2 (C) A county sheriff or any other member of the office of the
- 3 county sheriff.
- 4 (D) Other personnel employed to provide a service described
- 5 in this section.
- 6 (b) The county income tax council may adopt an ordinance to
- 7 impose an additional tax rate under this section to provide funding for
- 8 public safety if:
- 9 (1) the county income tax council has imposed a tax rate under
- 10 section 30 of this chapter, in the case of a county containing a
- 11 consolidated city; or
- 12 (2) the county income tax council has imposed a tax rate under
- 13 section 30 of this chapter and has also imposed a tax rate under
- 14 section 32 of this chapter, in the case of a county other than a
- 15 county containing a consolidated city.
- 16 (c) A tax rate under this section may not exceed the following:
- 17 (1) Five-tenths of one percent (0.5%), in the case of a county
- 18 containing a consolidated city.
- 19 (2) The lesser of:
- 20 (A) twenty-five hundredths of one percent (0.25%); or
- 21 (B) the tax rate imposed under section 32 of this chapter;
- 22 in the case of a county other than a county containing a
- 23 consolidated city.
- 24 (d) If a county income tax council adopts an ordinance to impose a
- 25 tax rate under this section, the county auditor shall send a certified
- 26 copy of the ordinance to the department and the department of local
- 27 government finance by certified mail.
- 28 (e) A tax rate under this section is in addition to any other tax rates
- 29 imposed under this chapter and does not affect the purposes for which
- 30 other tax revenue under this chapter may be used.
- 31 (f) The county auditor shall distribute the portion of the certified
- 32 distribution that is attributable to a tax rate under this section to the
- 33 county and to each municipality in the county. The amount that shall
- 34 be distributed to the county or municipality is equal to the result of:
- 35 (1) the portion of the certified distribution that is attributable to a
- 36 tax rate under this section; multiplied by
- 37 (2) a fraction equal to:
- 38 (A) the total property taxes being collected in the county by
- 39 the county or municipality for the calendar year; divided by
- 40 (B) the sum of the total property taxes being collected in the
- 41 county by the county and each municipality in the county for
- 42 the calendar year.

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1 The county auditor shall make the distributions required by this
2 subsection not more than thirty (30) days after receiving the portion of
3 the certified distribution that is attributable to a tax rate under this
4 section. Tax revenue distributed to a county or municipality under this
5 subsection must be deposited into a separate account or fund and may
6 be appropriated by the county or municipality only for public safety
7 purposes.

8 (g) The department of local government finance may not require a
9 county or municipality receiving tax revenue under this section to
10 reduce the county's or municipality's property tax levy for a particular
11 year on account of the county's or municipality's receipt of the tax
12 revenue.

13 (h) The tax rate under this section and the tax revenue attributable
14 to the tax rate under this section shall not be considered for purposes
15 of computing:

16 (1) the maximum income tax rate that may be imposed in a county
17 under section 8 or 9 of this chapter or any other provision of this
18 chapter;

19 (2) the maximum permissible property tax levy under STEP
20 EIGHT of IC 6-1.1-18.5-3(b); or

21 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
22 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5).

23 (i) The tax rate under this section may be imposed or rescinded at
24 the same time and in the same manner that the county may impose or
25 increase a tax rate under section 30 of this chapter.

26 (j) The department of local government finance and the department
27 of state revenue may take any actions necessary to carry out the
28 purposes of this section.

29 (k) Notwithstanding any other provision, in Lake County the county
30 council (and not the county income tax council) is the entity authorized
31 to take actions concerning the additional tax rate under this section.

32 SECTION 5. IC 6-8.1-15-13 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Except as
34 provided by section 20 of this chapter, this chapter applies to:

35 (1) the gross retail tax imposed on mobile telecommunications
36 service under IC 6-2.5-4-6;

37 (2) the monthly ~~emergency wireless~~ enhanced 911 fee imposed on
38 ~~mobile telecommunications~~ **voice communications** service under
39 ~~IC 36-8-16.5; IC 36-8-16.6;~~ and

40 (3) any other tax, charge, or fee levied by the state or a taxing
41 jurisdiction within Indiana as a fixed charge for each customer or
42 measured by gross amounts charged to customers for mobile

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1 telecommunications service, regardless of whether the tax,
 2 charge, or fee is imposed on the vendor or customer of the service
 3 and regardless of the terminology used to describe the tax, charge,
 4 or fee;
 5 on bills for mobile telecommunications service issued to customers
 6 after July 31, 2002.

7 (b) This chapter does not apply to:

8 (1) any tax, charge, or fee levied upon or measured by the net
 9 income, capital stock, net worth, or property value of the provider
 10 of mobile telecommunications service;

11 (2) any tax, charge, or fee that is applied to an equitably
 12 apportioned amount that is not determined on a transactional
 13 basis;

14 (3) any tax, charge, or fee that:

15 (A) represents compensation for a mobile telecommunications
 16 service provider's use of public rights-of-way or other public
 17 property; and

18 (B) is not levied by the taxing jurisdiction as a fixed charge for
 19 each customer or measured by gross amounts charged to
 20 customers for mobile telecommunication service;

21 (4) any generally applicable business and occupation tax that is
 22 imposed by the state, is applied to gross receipts or gross
 23 proceeds, is the legal liability of the home service provider, and
 24 that statutorily allows the home service provider to elect to use the
 25 sourcing method required in this section; or

26 (5) the determination of the taxing situs of:

27 (A) prepaid telephone calling service; or

28 (B) air-ground radiotelephone service as defined in Section
 29 22.99 of Title 47 of the Code of Federal Regulations as in
 30 effect June 1, 1999.

31 SECTION 6. IC 24-5-22-10 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The following
 33 have a right of action against a person who initiates or assists the
 34 transmission of a commercial electronic mail message that violates this
 35 chapter:

36 (1) A person who receives the commercial electronic mail
 37 message.

38 (2) An interactive computer service that handles or retransmits
 39 the commercial electronic mail message.

40 (b) This chapter does not provide a right of action against:

41 (1) an interactive computer service;

42 (2) a telephone company; or

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1 (3) a CMRS provider (as defined by ~~IC 36-8-16.5-6~~;
2 **IC 36-8-16.6-6**);
3 whose equipment is used to transport, handle, or retransmit a
4 commercial electronic mail message that violates this chapter.

5 (c) It is a defense to an action under this section if the defendant
6 shows by a preponderance of the evidence that the violation of this
7 chapter resulted from a good faith error and occurred notwithstanding
8 the maintenance of procedures reasonably adopted to avoid violations
9 of this chapter.

10 (d) If the plaintiff prevails in an action filed under this section, the
11 plaintiff is entitled to the following:

- 12 (1) An injunction to enjoin future violations of this chapter.
- 13 (2) Compensatory damages equal to any actual damage proven by
- 14 the plaintiff to have resulted from the initiation of the commercial
- 15 electronic mail message. If the plaintiff does not prove actual
- 16 damage, the plaintiff is entitled to presumptive damages of five
- 17 hundred dollars (\$500) for each commercial electronic mail
- 18 message that violates this chapter and that is sent by the
- 19 defendant:

- 20 (A) to the plaintiff; or
- 21 (B) through the plaintiff's interactive computer service.
- 22 (3) The plaintiff's reasonable attorney's fees and other litigation
- 23 costs reasonably incurred in connection with the action.

24 (e) A person outside Indiana who:

- 25 (1) initiates or assists the transmission of a commercial electronic
- 26 mail message that violates this chapter; and
- 27 (2) knows or should know that the commercial electronic mail
- 28 message will be received in Indiana;

29 submits to the jurisdiction of Indiana courts for purposes of this
30 chapter.

31 SECTION 7. IC 34-30-2-156 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 156. ~~IC 36-8-16-18~~
33 **IC 36-8-16.6-36** (Concerning service suppliers ~~or telephone companies~~
34 ~~for loss, death, or injury in an action~~ related to an ~~enhanced~~ emergency
35 telephone **notification** system).

36 SECTION 8. IC 34-30-2-156.1 IS ADDED TO THE INDIANA
37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2008]: **Sec. 156.1. IC 36-8-16.6-41**
39 **(Concerning the enhanced 911 advisory board, a PSAP, a political**
40 **subdivision, a voice communications service provider, a local**
41 **exchange carrier, a member of the board, or the board chair for**
42 **loss, death, or injury related to an enhanced 911 system).**

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1 SECTION 9. IC 35-45-5-4.7, AS AMENDED BY P.L.27-2006,
2 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 4.7. (a) An interactive computer service that
4 handles or retransmits a commercial electronic mail message has a
5 right of action against a person who initiates or assists the transmission
6 of the commercial electronic mail message that violates this chapter.

7 (b) This chapter does not provide a right of action against:

- 8 (1) an interactive computer service;
- 9 (2) a telephone company;
- 10 (3) a CMRS provider (as defined in ~~IC 36-8-16.5-6~~);
- 11 **IC 36-8-16.6-6**;
- 12 (4) a cable operator (as defined in 47 U.S.C. 522(5)); or
- 13 (5) any other entity that primarily provides connectivity to an
14 operator;

15 if the entity's equipment is used only to transport, handle, or retransmit
16 information that violates this chapter and is not capable of blocking the
17 retransmission of information that violates this chapter.

18 (c) It is a defense to an action under this section if the defendant
19 shows by a preponderance of the evidence that the violation of this
20 chapter resulted from a good faith error and occurred notwithstanding
21 the maintenance of procedures reasonably adopted to avoid violating
22 this chapter.

23 (d) If the plaintiff prevails in an action filed under this section, the
24 plaintiff is entitled to the following:

- 25 (1) An injunction to enjoin future violations of this chapter.
- 26 (2) Compensatory damages equal to any actual damage proven by
27 the plaintiff to have resulted from the initiation of the commercial
28 electronic mail message. If the plaintiff does not prove actual
29 damage, the plaintiff is entitled to presumptive damages of five
30 hundred dollars (\$500) for each commercial electronic mail
31 message that violates this chapter and that is sent by the
32 defendant:
- 33 (A) to the plaintiff; or
- 34 (B) through the plaintiff's interactive computer service.
- 35 (3) The plaintiff's reasonable attorney's fees and other litigation
36 costs reasonably incurred in connection with the action.

37 (e) A person outside Indiana who:

- 38 (1) initiates or assists the transmission of a commercial electronic
39 mail message that violates this chapter; and
- 40 (2) knows or should know that the commercial electronic mail
41 message will be received in Indiana;

42 submits to the jurisdiction of Indiana courts for purposes of this

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1 chapter.

2 SECTION 10. IC 36-1-10-2 IS AMENDED TO READ AS

3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this

4 chapter:

5 "Leasing agent" means the board or officer of a political subdivision

6 or agency with the power to lease structures.

7 "Parking facility" refers to a parking facility as defined in IC 36-9-1.

8 "Structure" means:

9 (1) a building used in connection with the operation of a political

10 subdivision; or

11 (2) a parking facility.

12 The term includes the site, the equipment, and appurtenances to the

13 building or parking facility.

14 "System" means:

15 (1) a computer (as defined in IC 36-8-15-4 **before its expiration**

16 **on July 1, 2012**);

17 (2) a communications system (as defined in IC 36-8-15-3(1)

18 **before its expiration on July 1, 2012**); or

19 (3) mobile or remote equipment that is coordinated by or linked

20 with a computer or communications system.

21 "Transportation project" means a road or highway project jointly

22 undertaken by the Indiana department of transportation and any county

23 through which a toll road project under IC 8-15-2 passes. A

24 transportation project must be located within an area described in

25 IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

26 SECTION 11. IC 36-7-4-405 IS AMENDED TO READ AS

27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 405. (a) ADVISORY

28 – AREA. Each plan commission shall:

29 (1) make recommendations to the legislative body or bodies

30 concerning:

31 (A) the adoption of the comprehensive plan and amendments

32 to the comprehensive plan;

33 (B) the adoption or text amendment of:

34 (i) an initial zoning ordinance;

35 (ii) a replacement zoning ordinance; and

36 (iii) a subdivision control ordinance;

37 (C) the adoption or amendment of a PUD district ordinance (as

38 defined in section 1503 of this chapter); and

39 (D) zone map changes; and

40 (2) render decisions concerning and approve plats, replats, and

41 amendments to plats of subdivisions under the 700 series of this

42 chapter.

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1 (b) Each plan commission:
 2 (1) shall assign street numbers to lots and structures;
 3 (2) shall renumber lots and structures; and
 4 (3) if the plan commission does not have the power under an
 5 ordinance adopted under subsection (c) to name or rename streets,
 6 may recommend the naming and renaming of streets to the
 7 executive.

8 (c) The executive shall name or rename streets. However, a unit may
 9 provide by ordinance that the plan commission rather than the
 10 executive shall name or rename streets. Streets shall be named or
 11 renamed so that their names are easy to understand and to avoid
 12 duplication or conflict with other names. The plan commission may, by
 13 rule, prescribe a numbering system for lots and structures.

14 (d) This subsection applies to a plan commission having jurisdiction
 15 in a county with a population of at least four hundred thousand
 16 (400,000). The plan commission shall number structures on highways
 17 within the plan commission's jurisdiction to conform with the numbers
 18 of structures on streets within cities in the county.

19 (e) This subsection applies to unincorporated areas subject to the
 20 jurisdiction of no plan commission under this article. The county
 21 executive:
 22 (1) must approve the assignment of street numbers to lots and
 23 structures; and
 24 (2) may number or renumber lots and structures and name or
 25 rename streets.

26 (f) This subsection applies to areas located within a municipality
 27 that are subject to the jurisdiction of no plan commission under this
 28 article. The executive of the municipality:
 29 (1) must approve the assignment of street numbers to lots and
 30 structures; and
 31 (2) may number or renumber lots and structures and name or
 32 rename streets.

33 (g) An executive acting under subsection (e) or (f) shall name or
 34 rename streets:
 35 (1) so that their names are easy to understand; and
 36 (2) to avoid duplication or conflict with other names.

37 (h) If streets are named or renamed or lots and structures are
 38 numbered or renumbered under this section, the commission or
 39 executive that makes the naming or numbering decision shall notify:
 40 (1) the circuit court clerk or board of registration;
 41 (2) the ~~administrator of the enhanced emergency telephone~~
 42 ~~system established under IC 36-8-16, if any; enhanced 911~~

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1 **advisory board established by IC 36-8-16.6-22.**
 2 (3) the United States Postal Service; and
 3 (4) any person or body that the commission or executive considers
 4 appropriate to receive notice;
 5 of its action no later than the last day of the month following the month
 6 in which the action is taken.

7 (i) Each plan commission shall make decisions concerning
 8 development plans and amendments to development plans under the
 9 1400 series of this chapter, unless the responsibility to render decisions
 10 concerning development plans has been delegated under section
 11 1402(c) of this chapter.

12 SECTION 12. IC 36-8-15-0.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter expires July**
 15 **1, 2012.**

16 SECTION 13. IC 36-8-16.6 IS ADDED TO THE INDIANA CODE
 17 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2008]:

19 **Chapter 16.6. Enhanced 911 Service**

20 **Sec. 1. As used in this chapter, "affiliate" has the meaning set**
 21 **forth in IC 23-1-43-1. The term includes a parent company or a**
 22 **subsidiary.**

23 **Sec. 2. (a) As used in this chapter, "automatic location**
 24 **identification" means an enhanced 911 service capability that**
 25 **enables the transmission of information concerning the location of**
 26 **a caller who places a 911 call.**

27 **(b) In the case of a 911 call placed from a wireless telephone, the**
 28 **term includes both:**

29 **(1) information on the location of the cell site or base station**
 30 **transmitting the call, as required under Phase I of the FCC**
 31 **Order; and**

32 **(2) more precise information on the caller's location,**
 33 **including the location of the caller by latitude and longitude**
 34 **within the accuracy requirements specified by the Federal**
 35 **Communications Commission under Phase II of the FCC**
 36 **Order.**

37 **(c) In the case of a 911 call placed by a subscriber of**
 38 **interconnected VOIP service, the term refers to the subscriber's**
 39 **registered location (as defined in 47 CFR 9.3).**

40 **Sec. 3. As used in this chapter, "automatic number**
 41 **identification" means an enhanced 911 service capability that**
 42 **enables the transmission of the ten (10) digit telephone number**

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1 used to place a 911 call.

2 **Sec. 4.** As used in this chapter, "board" refers to the enhanced
3 911 advisory board established by section 22 of this chapter.

4 **Sec. 5. (a)** As used in this chapter, "CMRS" refers to
5 commercial mobile radio service (as defined in 47 CFR 20.3).

6 **(b)** 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" means a
19 provider that offers CMRS to subscribers in Indiana.

20 **Sec. 7. (a)** As used in this chapter, "enhanced 911 system"
21 means a voice communications system that uses the three digit
22 number 911 to send automatic number identification and
23 automatic location identification for reporting police, fire, medical,
24 or other emergency situations.

25 **(b)** The term includes both:

26 (1) a wireline enhanced emergency telephone system funded
27 under IC 36-8-16 (before its repeal on July 1, 2008); and

28 (2) a wireless 911 emergency telephone system funded under
29 IC 36-8-16.5 (before its repeal on July 1, 2008).

30 **(c)** Subject to section 35(a)(5) of this chapter, the term also
31 includes an emergency telephone notification system established
32 under section 36 of this chapter.

33 **Sec. 8. (a)** As used in this chapter, "FCC order" refers to the
34 order of the Federal Communications Commission, FCC Docket
35 No. 94-102, adopted June 12, 1996, with an effective date of
36 October 1, 1996.

37 **(b)** The term includes any rules, regulations, and consent
38 decrees adopted by the Federal Communications Commission to
39 implement the order described in subsection (a).

40 **Sec. 9.** As used in this chapter, unless otherwise indicated, "fee"
41 refers to the monthly enhanced 911 fee assessed under section 29
42 of this chapter.

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- 1 **Sec. 10.** As used in this chapter, "fund" refers to the enhanced
- 2 **911 system fund established by section 27 of this chapter.**
- 3 **Sec. 11.** As used in this chapter, "interconnected VOIP service"
- 4 **has the meaning set forth in 47 CFR 9.3.**
- 5 **Sec. 12.** As used in this chapter, "local exchange carrier" has the
- 6 **meaning set forth in 47 U.S.C. 153(26).**
- 7 **Sec. 13.** As used in this chapter, "prepaid voice communications
- 8 **service" means a right:**
 - 9 **(1) to purchase voice communications service, either**
 - 10 **exclusively or in conjunction with other services;**
 - 11 **(2) that must be paid for in advance; and**
 - 12 **(3) that is sold in:**
 - 13 **(A) units; or**
 - 14 **(B) dollar amounts;**
 - 15 **that decline with use and that are known on a continuous**
 - 16 **basis.**
- 17 **Sec. 14.** As used in this chapter, "prepaid subscriber" refers to
- 18 **a subscriber of prepaid voice communications service who is issued**
- 19 **an Indiana telephone number or an Indiana identification number**
- 20 **for the service.**
- 21 **Sec. 15.** As used in this chapter, "proprietary information"
- 22 **includes the following:**
 - 23 **(1) Subscriber lists and related information.**
 - 24 **(2) Technology descriptions, technical information, or trade**
 - 25 **secrets (as defined by IC 24-2-3-2).**
 - 26 **(3) Information concerning the actual or developmental costs**
 - 27 **of an enhanced 911 system that is developed, produced, or**
 - 28 **received internally by a provider or by a provider's**
 - 29 **employees, directors, officers, or agents.**
- 30 **Sec. 16. (a)** As used in this chapter, "provider" means a person
- 31 **or an entity, or an affiliate of a person or an entity, that:**
 - 32 **(1) offers voice communications service to subscribers in**
 - 33 **Indiana; and**
 - 34 **(2) provides, or is required by the Federal Communications**
 - 35 **Commission to provide, a caller with direct access to a PSAP**
 - 36 **through the placement of a 911 call.**
- 37 **(b) The term includes the following:**
 - 38 **(1) Facilities based and nonfacilities based resellers of voice**
 - 39 **communications service.**
 - 40 **(2) Any other provider of voice communications service**
 - 41 **through wireline or wireless means, regardless of whether the**
 - 42 **provider is subject to regulation by the Indiana utility**

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regulatory commission.

Sec. 17. As used in this chapter, "PSAP" refers to the public safety answering point that is the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

Sec. 18. As used in this chapter, "standard subscriber" refers to a subscriber of voice communications service who pays retrospectively for the service and has an Indiana billing address for the service.

Sec. 19. As used in this chapter, "subscriber" refers to a standard subscriber or a prepaid subscriber of voice communications service.

Sec. 20. (a) As used in this chapter, "voice communications service" means:

- (1) the transmission, conveyance, or routing of real time, two-way voice communications between or among points specified by the user through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless or other medium or method, regardless of the protocol used; or
- (2) the ability to otherwise receive and terminate voice calls to and from the public switched telephone network.

(b) The term includes the following:

- (1) CMRS.
- (2) Interconnected VOIP service and voice over power lines.

Sec. 21. As used in this chapter, "VOIP provider" means a provider that offers interconnected VOIP service to subscribers in Indiana.

Sec. 22. (a) The enhanced 911 advisory board is established. 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.

(b) The board consists of the following seventeen (17) members:

- (1) The treasurer of state or the treasurer's designee. The treasurer of state or the treasurer's designee is chairperson of the board for a term concurrent with the treasurer of state's term of office. However, the treasurer of state's designee serves at the pleasure of the treasurer of state.
- (2) The following six (6) members appointed by the governor:
 - (A) One (1) member appointed from nominees submitted by the Indiana Association of Cities and Towns.
 - (B) One (1) member appointed from nominees submitted by the Association of Indiana Counties.

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- 1 (C) One (1) member who represents VOIP providers.
- 2 (D) Three (3) members appointed from nominees jointly
- 3 submitted by the executive committees of:
- 4 (i) the Indiana Chapter of the National Emergency
- 5 Number Association; and
- 6 (ii) the Indiana Chapter of the Association of Public
- 7 Safety Communication Officials International.
- 8 (3) The following five (5) members appointed by the speaker
- 9 of the house of representatives:
- 10 (A) One (1) member who is a sheriff.
- 11 (B) Two (2) members who represent CMRS providers.
- 12 (C) Two (2) members who represent local exchange
- 13 carriers offering local exchange service (as defined in
- 14 IC 8-1-32.4-8) to customers in Indiana, one (1) of whom
- 15 must represent a local exchange carrier serving less than
- 16 fifty thousand (50,000) local exchange access lines.
- 17 (4) The following five (5) members appointed by the president
- 18 pro tempore of the senate:
- 19 (A) One (1) member who is a chief of police.
- 20 (B) Two (2) members who represent CMRS providers.
- 21 (C) Two (2) members who represent local exchange
- 22 carriers offering local exchange service (as defined in
- 23 IC 8-1-32.4-8) to customers in Indiana, one (1) of whom
- 24 must represent a local exchange carrier serving less than
- 25 two hundred thousand (200,000) local exchange access
- 26 lines.
- 27 (c) This subsection applies to a member appointed under
- 28 subsection (b)(2), (b)(3), or (b)(4). Each appointing authority shall
- 29 ensure that the terms of the initial members appointed by the
- 30 appointing authority are staggered. After the initial appointments,
- 31 subsequent appointments shall be for four (4) year terms. A
- 32 vacancy on the board shall be filled for the vacating member's
- 33 unexpired term in the same manner as the original appointment,
- 34 and a member of the board is eligible for reappointment.
- 35 (d) This subsection applies to a member appointed under
- 36 subsection (b)(2), (b)(3), or (b)(4). A member shall submit the name
- 37 of a designee to the board. The board shall maintain a list of
- 38 approved designees. A member may appoint a listed designee to fill
- 39 the member's position under subsection (b) or to act on behalf of
- 40 the member at a meeting of the board. The designee serves at the
- 41 pleasure of the appointing member.
- 42 (e) The governor may at any time remove a member appointed

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1 under subsection (b)(2), (b)(3), or (b)(4) for misfeasance,
2 nonfeasance, or malfeasance in office.

3 Sec. 23. (a) A majority of the members of the board constitutes
4 a quorum for purposes of taking action. The board may take action
5 approved by a majority of the members of the board present at a
6 meeting of the board.

7 (b) A member may vote by proxy through another member.

8 Sec. 24. (a) Each member of the board who is not a state
9 employee is not entitled to receive the minimum salary per diem
10 provided by IC 4-10-11-2.1(b). The member is, however, entitled to
11 reimbursement for traveling expenses as provided under
12 IC 4-13-1-4 and other expenses actually incurred in connection
13 with the member's duties as provided in the state policies and
14 procedures established by the Indiana department of
15 administration and approved by the budget agency.

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

22 Sec. 25. (a) The board shall do the following:

23 (1) Develop, maintain, and update the enhanced 911 state plan
24 as required by section 26 of this chapter.

25 (2) Administer the enhanced 911 system fund established by
26 section 27 of this chapter.

27 (3) Administer the enhanced 911 fee in accordance with
28 section 33 of this chapter.

29 (4) Commission periodic audits of the fund, as required by
30 section 28(a) of this chapter.

31 (5) In accordance with section 28(b) of this chapter, review
32 the revenues and expenditures associated with the operation
33 of PSAPs throughout Indiana to ensure compliance with the
34 restrictions on the use of money distributed from the fund, as
35 set forth in section 35 of this chapter.

36 (6) Adopt rules under IC 4-22-2 to:

37 (A) establish programs to provide advisory services and
38 training for PSAPs throughout Indiana; and

39 (B) identify funding sources for the programs described in
40 clause (A).

41 (7) Perform its duties under this chapter in a manner that is
42 competitively and technologically neutral with respect to all

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- providers.
- (b) The board may do the following:
 - (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) Retain an independent, third party accounting firm for purposes of processing checks and distributing funds as directed by the board and as allowed by this chapter.
 - (4) Accept gifts, grants, or other money for the fund.
 - (5) Adopt rules under IC 4-22-2 to implement this chapter. However, the authority provided by this subdivision does not include the authority to adopt rules that:
 - (A) establish technical standards for enhanced 911 service; or
 - (B) otherwise regulate the provision of enhanced 911 service.
 - (6) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.
- Sec. 26. (a) Not later than September 1, 2008, the board shall develop an enhanced 911 state plan that includes the following:
 - (1) A comprehensive plan for communicating 911 call information across networks and among PSAPs.
 - (2) A comprehensive description of both wireline and wireless enhanced 911 systems in Indiana, including information on:
 - (A) the availability and quality of enhanced 911 service in Indiana, including the availability of Phase II enhanced 911 service in urban, suburban, and rural areas of Indiana; and
 - (B) the location, service territories, and functional capabilities of PSAPs in Indiana; and
 - (C) any other information the board considers necessary to provide a comprehensive assessment of Indiana's enhanced 911 systems.
 - (3) A description of the allowable uses of money in enhanced 911 system fund, as set forth in section 35 of this chapter.
- (b) In developing the plan required under this section, the board shall:
 - (1) monitor trends in voice communications service technology and enhanced 911 service technology;
 - (2) monitor the use of:

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- 1 (A) handset-based location technology (as defined in 47
2 CFR 20.3); and
3 (B) network-based location technology (as defined in 47
4 CFR 20.3);
5 including the use of global information systems or global
6 positioning systems, in determining the location of callers who
7 place 911 calls; and
8 (3) formulate strategies for the efficient and effective delivery
9 of enhanced 911 service.
- 10 (c) The board shall maintain the plan required under this
11 section in the offices of the treasurer of state. The board shall make
12 the plan available:
- 13 (1) for public inspection and copying at the offices of the
14 treasurer of state under IC 5-14-3; and
15 (2) electronically through the computer gateway administered
16 by the office of technology established by IC 4-13.1-2-1.
- 17 However, the access requirements of this subsection do not apply
18 to any data or information in the plan that constitutes proprietary
19 information or that is exempt from public disclosure under
20 IC 5-14-3-4(a) or IC 5-14-3-4(b)(19).
- 21 (d) The board shall review and update the plan:
- 22 (1) as often as necessary to ensure that the information
23 contained in the plan is accurate, current, and complete; but
24 (2) not less frequently than every two (2) years.
- 25 Sec. 27. (a) The enhanced 911 system fund is established for the
26 purpose of creating and maintaining enhanced 911 systems in
27 Indiana. The fund shall be administered by the board. The
28 expenses of administering the fund shall be paid from money in the
29 fund.
- 30 (b) The fund consists of the following:
- 31 (1) The enhanced 911 fee imposed on subscribers under
32 section 29 of this chapter.
33 (2) Appropriations made by the general assembly.
34 (3) Grants and gifts intended for deposit in the fund.
35 (4) Interest, premiums, gains, or other earnings on the fund.
- 36 (c) The board may invest money in the fund in the same manner
37 as other funds of the state may be invested under IC 5-13. Subject
38 to subsection (d), the board may also invest money in the fund in
39 any of the following:
- 40 (1) Corporate bonds, notes, and debentures, subject to the
41 following conditions:
- 42 (A) Maximum participation in any issue is limited to seven

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1 percent (7%) of the total issue.
2 **(B) The board shall establish minimum quality rating**
3 **standards and maximum purchase amount standards for**
4 **corporate issues.**
5 **(2) Investments maturing in one (1) year or less, subject to the**
6 **following conditions:**
7 **(A) These investments must be:**
8 **(i) Prime-1 commercial paper; and**
9 **(ii) banker's acceptance approved by banks' trust**
10 **investment committees.**
11 **(B) The maximum amount may not exceed fifty percent**
12 **(50%) of the fund.**
13 **(d) Whenever the quality, maturity, and yield of an investment**
14 **in an Indiana corporation or in a corporation that does business in**
15 **Indiana are equal to or better than similar investments in other**
16 **corporations, preference shall be given to investment in the**
17 **Indiana corporation or in the corporation that does business in**
18 **Indiana.**
19 **(e) Money in the fund at the end of a state fiscal year does not**
20 **revert to the state general fund.**
21 **Sec. 28. (a) The board shall select a third party to audit the fund**
22 **every two (2) years to determine whether the fund is being**
23 **managed in accordance with this chapter. The board shall pay for**
24 **an audit by the third party auditor as an administrative cost of the**
25 **board.**
26 **(b) Every two (2) years, in conjunction with updating the**
27 **enhanced 911 state plan under section 26(d) of this chapter, the**
28 **board shall review the collection, disbursement, and use of the**
29 **enhanced 911 fee assessed under section 29 of this chapter. The**
30 **purpose of the review is to ensure that the enhanced 911 fees**
31 **collected:**
32 **(1) do not exceed the amount reasonably necessary to provide**
33 **adequate and efficient enhanced 911 service; and**
34 **(2) are used only for the purposes allowed under section 35 of**
35 **this chapter.**
36 **Sec. 29. (a) As used in this section "place of primary use", with**
37 **respect to a standard subscriber, means the street address**
38 **representative of where the subscriber's use of voice**
39 **communications service primarily occurs, which must be:**
40 **(1) the residential street address or the primary business**
41 **street address of the subscriber; or**
42 **(2) in the case of a subscriber of interconnected VOIP service,**

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- 1 the subscriber's registered location (as defined in 47 CFR 9.3).
 2 (b) Except as provided in subsection (c), beginning July 1, 2008,
 3 the board shall impose a monthly enhanced 911 fee on each:
 4 (1) standard subscriber of voice communications service
 5 whose place of primary use is in Indiana; and
 6 (2) prepaid subscriber of voice communications who is issued
 7 an Indiana telephone number or an Indiana identification
 8 number for the service.
 9 (c) A subscriber is exempt from the enhanced 911 fee if the
 10 subscriber is any of the following:
 11 (1) The federal government or an agency of the federal
 12 government.
 13 (2) The state or an agency or instrumentality of the state.
 14 (3) A political subdivision (as defined in IC 36-1-2-13) or an
 15 agency of a political subdivision.
 16 (d) Subject to section 30 of this chapter, the amount of the initial
 17 fee imposed under this section is one dollar (\$1).
 18 (e) The monthly wireless emergency enhanced 911 fee assessed
 19 under IC 36-8-16.5 (before its repeal on July 1, 2008), is superseded
 20 by the fee assessed under this section, subject to section 30(a)(3) of
 21 this chapter.
 22 (f) If:
 23 (1) a county imposes a countywide enhanced emergency
 24 telephone system fee on June 30, 2008, under IC 36-8-16
 25 (before its repeal on July 1, 2008); or
 26 (2) a municipality imposes an enhanced emergency telephone
 27 system fee on June 30, 2008, under IC 36-8-16 (before its
 28 repeal on July 1, 2008);
 29 the enhanced emergency telephone system fee imposed by the
 30 county or the municipality is superseded on July 1, 2008, by the fee
 31 assessed under this section, subject to section 30(a)(4) of this
 32 section.
 33 (g) An additional fee relating to the provision of enhanced 911
 34 service may not be levied or imposed by a state agency or a
 35 political subdivision.
 36 (h) The enhanced 911 fee is exempt from state and local
 37 taxation.
 38 Sec. 30. (a) The board may adjust the enhanced 911 fee that is
 39 assessed under section 29 of this chapter. The board shall assess the
 40 fee at a rate that ensures the collection of the amount needed:
 41 (1) for the board to make the distributions to counties
 42 required under section 33 of this chapter;

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1 (2) to develop and maintain Indiana's enhanced 911 systems;
 2 (3) to pay any outstanding obligations of:
 3 (A) the wireless enhanced 911 advisory board;
 4 (B) a county; or
 5 (C) a PSAP;
 6 owed to any bondholders, third parties, or creditors under
 7 IC 36-8-16.5 (before its repeal on July 1, 2008); and
 8 (4) to pay any outstanding obligations of:
 9 (A) a county; or
 10 (B) a municipality;
 11 owed to any bondholders, third parties, or creditors under
 12 IC 36-8-16 (before its repeal on July 1, 2008).
 13 (b) The fee assessed under section 29 of this chapter may not be
 14 raised or lowered more than one (1) time in a calendar year.
 15 Sec. 31. (a) Each provider shall collect and remit the enhanced
 16 911 fee assessed under section 29 of this chapter as follows:
 17 (1) As part of its normal monthly billing process, a provider
 18 shall collect the fee from each standard subscriber and may
 19 list the fee as a separate line item on each bill. A provider
 20 shall collect the fee beginning with the first monthly billing
 21 cycle that begins after June 30, 2008. If a provider receives a
 22 partial payment for a monthly bill from a standard
 23 subscriber, the provider shall apply the payment against the
 24 amount the standard subscriber owes to the provider before
 25 applying the payment against the fee. The provider shall remit
 26 all fees collected under this subdivision to the board in
 27 accordance with section 32 of this chapter.
 28 (2) For prepaid subscribers, a provider shall collect and remit
 29 the enhanced 911 fee each calendar month as follows:
 30 (A) With respect to each new prepaid subscriber who:
 31 (i) does not have an existing prepaid account with the
 32 provider; and
 33 (ii) purchases prepaid voice communications service
 34 having a dollar value equal to or greater than the
 35 amount of the fee;
 36 the provider shall collect the fee at the point of sale. The
 37 provider shall remit all fees collected under this
 38 subdivision to the board in accordance with section 32 of
 39 this chapter.
 40 (B) Excluding any new prepaid subscriber accounts
 41 described in clause (A), with respect to all of the provider's
 42 active prepaid subscriber accounts with a balance equal to

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1 or greater than the amount of the fee as of the last day of
 2 the calendar month, the provider shall remit to the board
 3 under section 32 of this chapter an amount equal to the fee
 4 amount multiplied by the number of active prepaid
 5 subscriber accounts described in this clause.

6 A provider shall first collect the enhanced 911 fee from
 7 prepaid subscribers in accordance with this subdivision with
 8 respect to the calendar month that begins July 1, 2008.

9 (b) A provider, as part of its monthly billing process, may not
 10 prorate the monthly enhanced 911 fee collected from a subscriber
 11 under this section.

12 (c) A provider is not required to take legal action to enforce the
 13 collection of the enhanced 911 fee for which a subscriber is billed.
 14 However, a collection action may be initiated by the board. A court
 15 finding for the board in the action may award reasonable costs and
 16 attorney's fees associated with the collection action.

17 Sec. 32. (a) A provider may keep one and four-tenths cents
 18 (\$0.014) of the enhanced 911 fee collected each month from each
 19 subscriber for the purpose of defraying the administrative costs of
 20 collecting the fee.

21 (b) A fee collected by a provider under this chapter, less the
 22 administrative fee described in subsection (a), must be remitted to
 23 the board for deposit into the fund not more than sixty (60) days
 24 after the end of the calendar month in which the fee is collected.

25 Sec. 33. (a) As used in this section, "base distribution", with
 26 respect to an eligible county, means the sum of the following:

27 (1) The amount distributed to the county under
 28 IC 36-8-16.5-39(c)(2)(A) (before its repeal on July 1, 2008)
 29 during the state fiscal year ending June 30, 2007.

30 (2) The amount distributed to the county under
 31 IC 36-8-16.5-39(c)(2)(B) (before its repeal on July 1, 2008)
 32 during the state fiscal year ending June 30, 2007.

33 (b) As used in this section, "eligible county" means a county that
 34 contains:

35 (1) before July 1, 2012, at least one (1) eligible PSAP; and
 36 (2) after June 30, 2012, a PSAP authorized under section 39
 37 of this chapter.

38 (c) As used in this section, "eligible PSAP", with respect to a
 39 county, means a PSAP that complies with the enhanced 911
 40 requirements established by the FCC order and that:

41 (1) before July 1, 2012, is identified:

42 (A) by a county under IC 36-8-16.5-40 (before its repeal on

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- 1 **July 1, 2008), with respect to distributions made under this**
 2 **section before September 1, 2008; or**
 3 **(B) by the board as part of the state enhanced 911 plan**
 4 **prepared under section 26(a)(2)(B) of this chapter, with**
 5 **respect to distributions made under this section after**
 6 **August 31, 2008; or**
 7 **(2) after June 30, 2012, is the PSAP that is:**
 8 **(A) located in the county; and**
 9 **(B) authorized to serve all or part of the county under**
 10 **section 39 of this chapter.**
 11 **(d) The board shall manage the fund in the following manner:**
 12 **(1) Two cents (\$0.02) of the enhanced 911 fee collected from**
 13 **each subscriber may be used by the board to recover the**
 14 **board's expenses in administering this chapter. However, to**
 15 **allow for full recovery of administration expenses, the board**
 16 **may increase the amount under this subdivision at such time**
 17 **as the board may adjust the monthly fee under section 30 of**
 18 **this chapter.**
 19 **(2) Subject to subsection (e), seventy-six and six-tenths cents**
 20 **(\$0.766) of the enhanced 911 fee collected from each**
 21 **subscriber must be distributed to each eligible county. The**
 22 **board shall make the distributions under this subdivision in**
 23 **the following manner:**
 24 **(A) The board shall distribute on a monthly basis to each**
 25 **eligible county sixty-eight and eight-tenths cents (\$0.688)**
 26 **of the enhanced 911 fee based upon the county's**
 27 **percentage of the state's population. In making**
 28 **distributions under this clause, the board shall use the**
 29 **population for:**
 30 **(i) each county; and**
 31 **(ii) Indiana;**
 32 **as reported by the most recent official United States**
 33 **census.**
 34 **(B) The board shall distribute on a monthly basis to each**
 35 **eligible county seven and eight-tenths cents (\$0.078) of the**
 36 **enhanced 911 fee equally among the eligible counties.**
 37 **(3) The board shall deposit the remainder of the enhanced 911**
 38 **fee collected from each subscriber into an escrow account to**
 39 **be used for costs associated with other enhanced 911 services**
 40 **mandated by the FCC and specified in the FCC order but not**
 41 **incurred by PSAPs. The board may invest money in the**
 42 **account in the manner prescribed by section 27 of this chapter**

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1 and may use the proceeds of the investments for costs
2 associated with other enhanced 911 services mandated by the
3 FCC but not specified in the FCC order or to make
4 distributions to eligible PSAPs under this section.

5 (e) The following apply to distributions made to eligible counties
6 under subsection (d)(2):

7 (1) For distributions made before July 1, 2012, the following
8 apply:

9 (A) Subject to clause (B), the board may adjust the
10 amounts specified under subsection (d)(2) at such time as
11 the board may adjust the monthly fee under section 30 of
12 this chapter, as long as the amounts distributed under
13 subsection (d)(2)(A) and (d)(2)(B) after the adjustment are
14 proportional to the amounts distributed under subsection
15 (d)(2)(A) and (d)(2)(B) before the adjustment.

16 (B) The amount distributed to a particular eligible county
17 under subsection (d)(2) during a state fiscal year may not
18 be less than the amount of the eligible county's base
19 distribution.

20 (C) For a county that contains more than one (1) eligible
21 PSAP, the board shall, at the time a distribution is made,
22 specify to the county treasurer how the funds distributed
23 shall be allocated among the county's eligible PSAPs.

24 (2) After June 30, 2012, the amount distributed to a particular
25 eligible county under subsection (d)(2) during a state fiscal
26 year may not exceed the amount reasonably necessary to
27 operate and maintain in an adequate and efficient manner the
28 PSAP authorized under section 39 of this chapter, as
29 determined by the board under section 28(b) of this chapter.

30 Sec. 34. The distribution of enhanced 911 funds by the board to
31 an eligible county under section 33 of this chapter must be
32 deposited by the county treasurer in a separate fund set aside for
33 the purposes allowed by section 35 of this chapter. The fund must
34 be known as the _____ (insert name of county) enhanced 911
35 system fund. The county treasurer may invest money in the fund
36 in the same manner that other money of the county may be
37 invested, but income earned from the investment must be deposited
38 in the fund set aside under this section. The county treasurer shall
39 distribute money from the fund as follows:

40 (1) Before July 1, 2012:

41 (A) to the county's eligible PSAP, if the county contains
42 only one (1) eligible PSAP; or

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- 1 **(B) to each eligible PSAP in the county as directed by the**
- 2 **board under section 33(e)(1)(C), if the county contains**
- 3 **more than one (1) eligible PSAP.**
- 4 **(2) After July 1, 2012, to the PSAP authorized under section**
- 5 **39 of this chapter.**
- 6 **Sec. 35. (a) An eligible PSAP may use the funds distributed to it**
- 7 **by the county treasurer under section 34 of this chapter only for**
- 8 **the following:**
- 9 **(1) The lease, purchase, or maintenance of enhanced 911**
- 10 **equipment, including necessary computer hardware,**
- 11 **software, and data base equipment.**
- 12 **(2) Personnel expenses and training related to the**
- 13 **maintenance and operation of the enhanced 911 system.**
- 14 **(3) The provision of enhanced 911 service, including:**
- 15 **(A) the rates associated with a provider's enhanced 911**
- 16 **system network services; and**
- 17 **(B) any charges or other payments owed to a provider**
- 18 **under subsection (b).**
- 19 **(4) Educating consumers about the operations, limitations,**
- 20 **role, and responsible use of enhanced 911 service.**
- 21 **(5) If the PSAP has funds remaining after paying for any**
- 22 **expenses described in subdivisions (1) through (4), the**
- 23 **establishment and operation of an emergency telephone**
- 24 **notification system under section 36 of this chapter.**
- 25 **(b) A PSAP that provides enhanced 911 service is responsible to**
- 26 **a voice communications service provider for all enhanced 911**
- 27 **installation, service, equipment, operation, and maintenance**
- 28 **charges owed to the provider. A PSAP may contract with a**
- 29 **provider on terms agreed to by the PSAP and the provider.**
- 30 **(c) An eligible county or a PSAP may not use any proceeds from**
- 31 **a distribution from the board under section 33 of this chapter to**
- 32 **pay for any of the following:**
- 33 **(1) The lease or purchase of real estate.**
- 34 **(2) Cosmetic remodeling of emergency dispatch centers.**
- 35 **(3) The purchase of mobile communications vehicles,**
- 36 **ambulances, fire engines, or other emergency vehicles.**
- 37 **(d) If:**
- 38 **(1) the board receives a written complaint alleging that a**
- 39 **county or a PSAP has used money received under this chapter**
- 40 **in a manner that is inconsistent with this chapter; and**
- 41 **(2) a majority of the board votes to conduct an audit of the**
- 42 **county or the PSAP;**

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

5 Sec. 36. (a) As used in this section, "emergency telephone
 6 notification system" means an enhanced 911 system capability that
 7 provides service users within the territory served by a PSAP with
 8 a telephone warning of an emergency situation through a
 9 computerized warning system that uses 911 data base information
 10 and technology.

11 (b) As used in this section, "service supplier" means a voice
 12 communications service provider that provides telephone exchange
 13 service (as defined in 47 U.S.C. 153(47)) to a service user.

14 (c) As used in this section, "service user" means a person to
 15 whom telephone exchange service (as defined in 47 U.S.C. 153(47))
 16 is provided.

17 (d) A county may establish an emergency telephone notification
 18 system. Subject to section 35(a)(5) of this chapter, a PSAP in the
 19 county may use funds distributed to it by the county treasurer
 20 under section 33 of this chapter to establish and operate an
 21 emergency telephone notification system under this section.

22 (e) A service supplier shall provide to a PSAP the necessary
 23 subscriber data to enable the PSAP to implement an emergency
 24 telephone notification system under this section. The provision of
 25 data under this subsection is subject to section 37 of this chapter.
 26 In providing data under this subsection, the service supplier shall
 27 provide:

- 28 (1) the telephone number service address;
- 29 (2) the class of service; and
- 30 (3) a designation of listed, unlisted, or nonpublished;

31 for each service user in the PSAP's service territory. The service
 32 supplier shall provide this data to the PSAP on a quarterly basis.
 33 The service supplier may charge a reasonable fee to the PSAP for
 34 the administrative costs of providing the data.

35 (f) A service supplier may not be held liable in an action arising
 36 under this section.

37 Sec. 37. (a) A voice communications service provider shall, upon
 38 request, provide to a PSAP the necessary subscriber data to enable
 39 the PSAP to implement and operate an enhanced 911 system.
 40 Subscriber data provided to a PSAP for the purpose of
 41 implementing or updating an enhanced 911 system may be used
 42 only to identify:

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- 1 (1) a subscriber;
- 2 (2) a subscriber's place of primary use (as defined in section
- 3 29(a) of this chapter); or
- 4 (3) both (1) and (2);

5 and may not be used or disclosed by the PSAP, or its agents or
 6 employees, for any other purpose unless the data is used or
 7 disclosed under a court order. A person who violates this
 8 subsection commits a Class A misdemeanor.

9 (b) After May 31, 1988, a contract entered into between a voice
 10 communications service provider and a subscriber who has an
 11 unlisted or nonpublished telephone number listing may not include
 12 a provision that prohibits the provider from providing the
 13 subscriber's telephone number to a PSAP for inclusion in an
 14 enhanced 911 system data base. A provider (other than a provider
 15 who before June 1, 1988, has contracted to not divulge a
 16 subscriber's unlisted or nonpublished telephone number) shall
 17 provide a requesting PSAP with the name, telephone number, and
 18 place of primary use (as defined in section 29(a) of this chapter) for
 19 each subscriber of the provider. A PSAP may not release a
 20 telephone number required to be provided under this subsection to
 21 any person except as provided in subsection (a).

22 (c) A provider may amend or terminate a contract with a
 23 subscriber if:

- 24 (1) the contract contains a provision that prohibits the
- 25 subscriber from providing the subscriber's telephone number
- 26 to a PSAP for inclusion in an enhanced 911 system data base;
- 27 (2) the exclusion of the number from the data base would
- 28 negate the purpose of this chapter; and
- 29 (3) the subscriber is notified of the proposed amendment or
- 30 termination of that contract at least one hundred eighty (180)
- 31 days before the provider takes that action.

32 **Sec. 38. (a)** All proprietary information submitted to the board
 33 or the treasurer of state is confidential. Notwithstanding any other
 34 law, proprietary information submitted under this chapter is not
 35 subject to subpoena, and proprietary information submitted under
 36 this chapter may not be released to a person other than to the
 37 submitting provider without the permission of the submitting
 38 provider.

39 (b) General information collected by the board or the treasurer
 40 of state may be released or published only in aggregate amounts
 41 that do not identify or allow identification of numbers of
 42 subscribers or revenues attributable to an individual provider.

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1 **Sec. 39. (a) For purposes of this section, a PSAP includes a**
2 **public safety communications system operated and maintained**
3 **under IC 36-8-15 (before its expiration on July 1, 2012).**

4 **(b) After June 30, 2012, a county may not contain more than one**
5 **(1) PSAP.**

6 **(c) Before July 1, 2012, each political subdivision or agency that**
7 **operates a PSAP in a county that contains more than one (1) PSAP:**

8 **(1) shall enter into an interlocal agreement under IC 36-1-7**
9 **with every other:**

10 **(A) political subdivision; or**

11 **(B) agency;**

12 **that operates a PSAP in the county; and**

13 **(2) may enter into an interlocal agreement under IC 36-1-7**
14 **with:**

15 **(A) other counties contiguous to the county;**

16 **(B) other political subdivisions in a county contiguous to**
17 **the county; or**

18 **(C) other:**

19 **(i) political subdivisions; or**

20 **(ii) agencies;**

21 **that operate a PSAP in a county contiguous to the county;**
22 **to ensure compliance with subsection (b).**

23 **(d) An interlocal agreement entered into under subsection (c)**
24 **must:**

25 **(1) subject to subsection (e), provide for the staffing and**
26 **funding obligations of each county, political subdivision, or**
27 **agency participating in the establishment of a county or**
28 **regional PSAP; and**

29 **(2) be approved by the board.**

30 **(e) If, under an interlocal agreement entered into under**
31 **subsection (c)(2), a PSAP serves territory in more than one (1)**
32 **county, the board shall make the distribution under section**
33 **33(d)(2) of this chapter to the county in which the PSAP is**
34 **physically located, unless the parties to the interlocal agreement**
35 **have specified otherwise in the agreement.**

36 **(f) This section may not be construed to require a county to**
37 **contain a PSAP.**

38 **Sec. 40. A provider is not required to provide enhanced 911**
39 **service unless the elements requiring providers to provide**
40 **enhanced 911 service under the FCC order are present.**

41 **Sec. 41. Notwithstanding any other law, the board, a PSAP, a**
42 **political subdivision, a provider, a local exchange carrier, or an**

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1 employee, director, officer, or agent of a PSAP, political
 2 subdivision, provider, or local exchange carrier, or a member of
 3 the board or the board chair, or an employee, agent, or
 4 representative of the board chair is not liable for damages in a civil
 5 action or subject to criminal prosecution resulting from death,
 6 injury, or loss to persons or property incurred by any person in
 7 connection with establishing, developing, implementing,
 8 maintaining, providing data for, operating, or providing enhanced
 9 911 service in compliance with the requirements established by the
 10 FCC order, except in the case of willful or wanton misconduct.

11 Sec. 42. (a) A person may not use an enhanced 911 system
 12 except to make emergency calls that may result in dispatch of the
 13 appropriate response for:

- 14 (1) fire suppression and rescue;
- 15 (2) emergency medical or ambulance services;
- 16 (3) hazardous material, disaster, or major emergency
 17 occurrences; or
- 18 (4) law enforcement activities.

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

21 Sec. 43. (a) A person may not connect an automatic alarm or
 22 another automated alerting device to the network of a provider or
 23 to an enhanced 911 system if the alarm or device:

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

27 (b) A person who knowingly or intentionally violates this section
 28 commits a Class A misdemeanor.

29 Sec. 44. (a) An enhanced 911 system may be used only for
 30 emergency communications by the public.

31 (b) Except as provided in subsection (c), a person who
 32 knowingly or intentionally uses or attempts to use an enhanced 911
 33 system:

- 34 (1) for a purpose other than obtaining public safety
 35 assistance; or
- 36 (2) in an effort to avoid charges for voice communications
 37 service;

38 commits a Class A misdemeanor.

39 (c) A person who:

- 40 (1) knowingly or intentionally uses an enhanced 911 system in
 41 a manner prohibited by subsection (b); and
- 42 (2) obtains voice communications service with a value of at

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1 **least one hundred dollars (\$100) from the use;**
2 **commits a Class D felony.**

3 SECTION 14. IC 36-9-13-3.5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.5. As used in this
5 chapter, "system" means any of the following:

- 6 (1) A computer (as defined in IC 36-8-15-4 **before its expiration**
7 **on July 1, 2012).**
- 8 (2) A communications system (as defined in IC 36-8-15-3(1)
9 **before its expiration on July 1, 2012).**
- 10 (3) Mobile or remote equipment that is coordinated by or linked
11 with a computer or communication system.
- 12 (4) Upon the request of:
 - 13 (A) the fiscal body of an eligible entity having a fiscal body;
 - 14 or
 - 15 (B) the governing body of an eligible entity not having a fiscal
16 body;

17 security services provided by human or nonhuman means.
18 SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE
19 JULY 1, 2008]: IC 36-8-16; IC 36-8-16.5; IC 36-8-21.

20 SECTION 16. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
21 **SECTION, "board" refers to the enhanced 911 advisory board**
22 **established by IC 36-8-16.6-22, as added by this act.**

23 (b) **As used in this SECTION, "CMRS" has the meaning set**
24 **forth in IC 36-8-16.6-5, as added by this act.**

25 (c) **As used in this SECTION, "CMRS provider" has the**
26 **meaning set forth in IC 36-8-16.6-6, as added by this act.**

27 (d) **Notwithstanding IC 36-8-16.6-22, as added by this act, the**
28 **three (3) members of the wireless enhanced 911 advisory board**
29 **appointed under IC 36-8-16.5-18(c)(2) (before its repeal by this act**
30 **on July 1, 2008) shall serve as the initial members of the board**
31 **required to be appointed by the governor under**
32 **IC 36-8-16.6-22(b)(2)(D), as added by this act. A member described**
33 **in this subsection shall serve on the board for the period that**
34 **remains in the member's term under IC 36-8-16.5-18(c)(2) (before**
35 **its repeal by this act on July 1, 2008). Upon the expiration of the**
36 **member's term under IC 36-8-16.5-18(c)(2) (before its repeal by**
37 **this act on July 1, 2008), the member is eligible for reappointment**
38 **to the board by the governor under IC 36-8-16.6-22(b)(2)(D), as**
39 **added by this act, subject to the requirement that the terms of the**
40 **members first appointed by the governor under**
41 **IC 36-8-16.6-22(b)(2)(D), as added by this act, must be staggered.**

42 (e) **Notwithstanding IC 36-8-16.6-22, as added by this act, the**

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1 following apply with respect to the appointment of the initial four
2 (4) members required to be appointed to the board under
3 IC 36-8-16.6-22(b)(3)(B) and IC 36-8-16.6-22(b)(4)(B), both as
4 added by this act:

5 (1) Subject to subdivision (2), two (2) members of the wireless
6 enhanced 911 advisory board appointed under
7 IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1,
8 2008) shall serve as the two (2) initial members of the board
9 required to be appointed under IC 36-8-16.6-22(b)(3)(B), as
10 added by this act. A member described in this subdivision
11 shall serve on the board for the period that remains in the
12 member's term under IC 36-8-16.5-18(c)(3) (before its repeal
13 by this act on July 1, 2008). Upon the expiration of the
14 member's term under IC 36-8-16.5-18(c)(3) (before its repeal
15 by this act on July 1, 2008), the member is eligible for
16 reappointment to the board by the speaker of the house of
17 representatives under IC 36-8-16.6-22(b)(3)(B), as added by
18 this act, subject to the requirement that the terms of the
19 members first appointed by the speaker of the house of
20 representatives under IC 36-8-16.6-22(b)(3)(B), as added by
21 this act, must be staggered.

22 (2) One (1) member of the wireless enhanced 911 advisory
23 board appointed under IC 36-8-16.5-18(c)(3) (before its repeal
24 by this act on July 1, 2008) shall serve as one (1) of the initial
25 members of the board required to be appointed under
26 IC 36-8-16.6-22(b)(4)(B), as added by this act. If the terms of
27 the members of the wireless enhanced 911 advisory board
28 appointed under IC 36-8-16.5-18(c)(3) (before its repeal by
29 this act on July 1, 2008) expire at different times, the member
30 whose term first expires shall be the member who serves as an
31 initial member of the board under this subdivision. The
32 member described in this subdivision shall serve on the board
33 for the period that remains in the member's term under
34 IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1,
35 2008). Upon the expiration of the member's term under
36 IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1,
37 2008), the member is eligible for reappointment to the board
38 by the president pro tempore of the senate under
39 IC 36-8-16.6-22(b)(4)(B), as added by this act, subject to the
40 requirement that the terms of the members first appointed by
41 the president pro tempore of the senate under
42 IC 36-8-16.6-22(b)(4)(B), as added by this act, must be

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staggered.
(3) The remaining initial member of the board required to be appointed under IC 36-8-16.6-22(b)(4)(B), as added by this act, shall be appointed by the governor from three (3) nominees recommended by CMRS providers that offer CMRS in Indiana. The member described in this subdivision shall serve on the board for a term that begins July 1, 2008, and expires at the same time as the term of an initial member of the board described in subdivision (1) first expires. Upon the expiration of the term of the member appointed by the governor under this subdivision, the member is eligible for reappointment to the board by the president pro tempore of the senate under IC 36-8-16.6-22(b)(4)(B), as added by this act, subject to the requirement that the terms of the members first appointed by the president pro tempore of the senate under IC 36-8-16.6-22(b)(4)(B), as added by this act, must be staggered.

(f) The following members of the board have no counterparts on the wireless enhanced 911 advisory board established by IC 36-8-16.5-18 (before its repeal by this act on July 1, 2008) and shall be appointed as set forth in IC 36-8-16.6-22, as added by this act, not later than July 1, 2008, subject to the requirement that the terms of the initial members appointed by each appointing authority must be staggered:

- (1) One (1) member appointed from nominees submitted by the Indiana Association of Cities and Towns, as required by IC 36-8-16.6-22(b)(2)(A), as added by this act.
- (2) One (1) member appointed from nominees submitted by the Association of Indiana Counties, as required by IC 36-8-16.6-22(b)(2)(B), as added by this act.
- (3) One (1) member who represents VOIP providers, as required by IC 36-8-16.6-22(b)(2)(C), as added by this act.
- (4) One (1) member who is a sheriff, as required by IC 36-8-16.6-22(b)(3)(A), as added by this act.
- (5) One (1) member who is a chief of police, as required by IC 36-8-16.6-22(b)(4)(A), as added by this act.
- (6) Two (2) members who represent local exchange carriers offering local exchange service (as defined in IC 8-1-32.4-8) to customers in Indiana, one (1) of whom must represent a local exchange carrier serving less than fifty thousand (50,000) local exchange access lines, as required by IC 36-8-16.6-22(b)(3)(C), as added by this act.

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1 (7) Two (2) members who represent local exchange carriers
2 offering local exchange service (as defined in IC 8-1-32.4-8) to
3 customers in Indiana, one (1) of whom must represent a local
4 exchange carrier serving less than two hundred thousand
5 (200,000) local exchange access lines, as required by
6 IC 36-8-16.6-22(b)(4)(C), as added by this act.

7 (g) This SECTION expires January 1, 2012.

8 SECTION 17. [EFFECTIVE UPON PASSAGE] (a) As used in this
9 SECTION, "board" refers to the enhanced 911 advisory board
10 established by IC 36-8-16.6-22, as added by this act.

11 (b) The funds that remain in the wireless emergency telephone
12 system fund established by IC 36-8-16.5-21 (before its repeal by
13 this act on July 1, 2008) on July 1, 2008, shall be distributed as
14 follows:

15 (1) Three hundred thousand dollars (\$300,000) is
16 appropriated to the department of homeland security
17 established by IC 10-19-2-1 for use in upgrading the state's
18 emergency alert system to include an enhanced satellite based
19 network.

20 (2) Any amount remaining after the appropriation required
21 by subdivision (1) shall be transferred to the enhanced 911
22 system fund established by IC 36-8-16.6-27, as added by this
23 act.

24 (c) Notwithstanding IC 36-8-16.6-33, as added by this act, before
25 October 1, 2008, the board shall manage the enhanced 911 system
26 fund established by IC 36-8-16.6-27, as added by this act, in the
27 manner set forth in IC 36-8-16.5-39(c) (before its repeal by this act
28 on July 1, 2008).

29 (d) After September 30, 2008, the board shall manage the
30 enhanced 911 system fund established by IC 36-8-16.6-27, as added
31 by this act, in the manner set forth in IC 36-8-16.6-33, as added by
32 this act.

33 (e) This SECTION expires January 1, 2009.

34 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) The funds that
35 remain in a county's wireless emergency telephone system fund
36 established by IC 36-8-16.5-43 (before its repeal by this act on July
37 1, 2008) on July 1, 2008, shall be transferred to the county's
38 enhanced 911 system fund established by IC 36-8-16.6-34, as added
39 by this act. Any funds transferred under this SECTION shall be
40 used as follows:

41 (1) To pay any obligations owed to any bondholders, third
42 parties, or creditors under IC 36-8-16.5 (before its repeal by

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1 **this act on July 1, 2008).**

2 **(2) To the extent any funds remain after meeting the**
 3 **obligations described in subdivision (1), for the purposes set**
 4 **forth in IC 36-8-16.6-35, as added by this act.**

5 **(b) This SECTION expires January 1, 2009.**

6 SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) The funds that**
 7 **remain in an emergency telephone system fund established by a**
 8 **county under IC 36-8-16-13 (before its repeal by this act on July 1,**
 9 **2008) on July 1, 2008, shall be transferred to the county's enhanced**
 10 **911 system fund established under IC 36-8-16.6-34, as added by**
 11 **this act. Any funds transferred under this subsection shall be used**
 12 **as follows:**

13 **(1) To pay any obligations owed to any bondholders, third**
 14 **parties, or creditors under IC 36-8-16 (before its repeal by**
 15 **this act on July 1, 2008).**

16 **(2) To the extent any funds remain after meeting the**
 17 **obligations described in subdivision (1), for the purposes set**
 18 **forth in IC 36-8-16.6-35, as added by this act.**

19 **(b) The funds that remain in an emergency telephone system**
 20 **fund established by a municipality under IC 36-8-16-13 (before its**
 21 **repeal by this act on July 1, 2008) on July 1, 2008, shall be**
 22 **transferred to the enhanced 911 system fund established under**
 23 **IC 36-8-16.6-34, as added by this act, for the county in which the**
 24 **municipality is located. Any funds transferred under this**
 25 **subsection shall be used as follows:**

26 **(1) To pay any obligations owed by the municipality to any**
 27 **bondholders, third parties, or creditors under IC 36-8-16**
 28 **(before its repeal by this act on July 1, 2008).**

29 **(2) To the extent any funds remain after meeting the**
 30 **obligations described in subdivision (1), for the purposes set**
 31 **forth in IC 36-8-16.6-35, as added by this act.**

32 **(c) This SECTION expires January 1, 2009.**

33 SECTION 20. [EFFECTIVE JULY 1, 2012] **(a) Notwithstanding**
 34 **the expiration of IC 36-8-15 on July 1, 2012, under this act:**

35 **(1) a public safety communications systems and computer**
 36 **facilities district created by IC 36-8-15-7(a) (before its**
 37 **expiration under this act on July 1, 2012); and**

38 **(2) a public safety communications systems district created**
 39 **under IC 36-8-15-7(b) (before its expiration under this act on**
 40 **July 1, 2012);**

41 **remain in existence until such time as all bonds, loans, lease**
 42 **payments, or other obligations that were issued, obtained, or**

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1 incurred by the district before July 1, 2012, are satisfied according
2 to their terms.

3 (b) Notwithstanding the expiration of IC 36-8-15-14 on July 1,
4 2012, under this act, all taxable property located within:

5 (1) a public safety communications systems and computer
6 facilities district created by IC 36-8-15-7(a) (before its
7 expiration under this act on July 1, 2012); and

8 (2) a public safety communications systems district created
9 under IC 36-8-15-7(b) (before its expiration under this act on
10 July 1, 2012);

11 remains subject to a special benefits tax as provided for by
12 IC 36-8-15-14 (before its expiration under this act on July 1, 2012)
13 until such time as revenue from the tax is no longer needed by the
14 district to satisfy any bonds, loans, lease payments, or other
15 obligations that were issued, obtained, or incurred by the district
16 before July 1, 2012.

17 (c) Notwithstanding the expiration of IC 36-8-15-18 on July 1,
18 2012, under this act, all property located within a public safety
19 communications systems and computer facilities district in a
20 county having a consolidated city remains subject to a special tax
21 as provided for by IC 36-8-15-18 (before its expiration under this
22 act on July 1, 2012) until such time as revenue from the special tax
23 is no longer needed by the district to satisfy any bonds that were
24 issued by the district before July 1, 2012.

25 (d) Notwithstanding the expiration of IC 36-8-15-19 on July 1,
26 2012, under this act, all property located within a public safety
27 communications systems district in a county not having a
28 consolidated city remains subject to an ad valorem property tax as
29 provided for by IC 36-8-15-19(a) (before its expiration under this
30 act on July 1, 2012) until such time as revenue from the tax is no
31 longer needed by the district to satisfy any bonds, loans, lease
32 payments, or other obligations that were issued, obtained, or
33 incurred by the district before July 1, 2012.

34 (e) After June 30, 2012:

35 (1) a public safety communications systems and computer
36 facilities district created by IC 36-8-15-7(a) (before its
37 expiration under this act on July 1, 2012); and

38 (2) a public safety communications systems district created
39 under IC 36-8-15-7(b) (before its expiration under this act on
40 July 1, 2012);

41 may not pledge revenue from any bonds issued or taxes levied
42 under IC 36-8-15 (before its expiration under this act on July 1,

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1 **2012) before July 1, 2012.**
2 **SECTION 21. An emergency is declared for this act.**

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