January 25, 2008

SENATE BILL No. 359

DIGEST OF SB 359 (Updated January 22, 2008 8:51 pm - DI 101)

Citations Affected: IC 5-26; IC 6-3.5; IC 6-8.1; IC 24-5; IC 34-30; IC 35-45; IC 36-1; IC 36-7; IC 36-8; IC 36-9; noncode.

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. Provides that the board may not raise or lower the enhanced 911 fee more than two times in a calendar year. 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. Allows providers to keep 2% of the fee collected as an administrative fee. Requires the board to distribute money from the fund to counties containing an eligible public safety

(Continued next page)

Effective: Upon passage; July 1, 2008; January 1, 2012.

Hershman

January 14, 2008, read first time and referred to Committee on Utilities & Regulatory Affairs.
January 24, 2008, amended, reported favorably — Do Pass.

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Digest Continued

answering point (PSAP). Requires the board to adopt rules to establish a distribution formula that ensures that each eligible county receives a monthly distribution that is not less than a specified base distribution (based on wireline and wireless enhanced 911 fees received by the county in the state fiscal year ending June 30, 2007). Specifies the permissible uses for the funds distributed to an eligible PSAP. Requires the board to commission an audit of each eligible PSAP every two years. Allows a county to establish an emergency telephone notification system (system). Provides that funds distributed to the county by the board may be used 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 January 1, 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 to enter, not later than January 1, 2012, 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 January 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. Specifies that the funds remaining in the wireless emergency telephone system fund on July 1, 2008, are transferred to the enhanced 911 system fund. Allows the board to make grants to the appropriate state agencies for use in upgrading the state's emergency alert system. 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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January 25, 2008

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.

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

SECTION 1. IC 5-26-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this article, "system" refers to the Indiana statewide wireless public safety voice and data communications system. The term does not include ~~the~~ **an** enhanced ~~emergency telephone~~ **911** system ~~under IC 36-8-16-2.~~ **(as defined in IC 36-8-16.6-7).**

SECTION 2. IC 6-3.5-1.1-25, AS ADDED BY P.L.224-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) As used in this section, "public safety" refers to the following:

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

(2) A firefighting and fire prevention system.

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

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

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

(6) A probation department of a court.

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

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

(B) convicted of a crime; or

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

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

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

(10) A county jail.

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

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

(13) Pension payments for any of the following:

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

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

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) If a county council has imposed a tax rate under section 24 of this chapter and has imposed a tax rate under section 26 of this chapter, the county council may also adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety.

(c) A tax rate under this section may not exceed the lesser of:

(A) twenty-five hundredths of one percent (0.25%); or

(B) the tax rate imposed under section 26 of this chapter.

(d) If a county council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified copy of the

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

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

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

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

(2) a fraction equal to:

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

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

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

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

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

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

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

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

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

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

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

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b) **(before its expiration on January 1, 2012);**

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i);

(6) make distributions of distributive shares to the civil taxing units of a county; and

(7) make the distributions permitted under sections 27, 28, 29, 30, 31, 32, and 33 of this chapter.

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

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b) **(before its expiration on January 1, 2012),** and IC 36-9-4-42 from the county's certified distribution for that same calendar year; and

(2) the amount of an additional tax rate imposed under section 27, 28, 29, 30, 31, 32, or 33 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A firefighting and fire prevention system.

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

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

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

(6) A probation department of a court.

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

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

(B) convicted of a crime; or

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

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

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

(10) A county jail.

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

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

(13) Pension payments for any of the following:

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

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

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department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) The county income tax council may adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety if:

(1) the county income tax council has imposed a tax rate under section 30 of this chapter, in the case of a county containing a consolidated city; or

(2) the county income tax council has imposed a tax rate under section 30 of this chapter and has also imposed a tax rate under section 32 of this chapter, in the case of a county other than a county containing a consolidated city.

(c) A tax rate under this section may not exceed the following:

(1) Five-tenths of one percent (0.5%), in the case of a county containing a consolidated city.

(2) The lesser of:

(A) twenty-five hundredths of one percent (0.25%); or

(B) the tax rate imposed under section 32 of this chapter;

in the case of a county other than a county containing a consolidated city.

(d) If a county income tax council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

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

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

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

(2) a fraction equal to:

(A) the total property taxes being collected in the county by the county or municipality for the calendar year; divided by

(B) the sum of the total property taxes being collected in the county by the county and each municipality in the county for the calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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telecommunications service, regardless of whether the tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee;

on bills for mobile telecommunications service issued to customers after July 31, 2002.

(b) This chapter does not apply to:

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

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

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

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

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

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

(5) the determination of the taxing situs of:

(A) prepaid telephone calling service; or

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

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

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

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

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

(1) an interactive computer service;

(2) a telephone company; or

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(3) a CMRS provider (as defined by ~~IC 36-8-16.5-6);~~ **IC 36-8-16.6-6);**

whose equipment is used to transport, handle, or retransmit a commercial electronic mail message that violates this chapter.

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

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

(1) An injunction to enjoin future violations of this chapter.

(2) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the commercial electronic mail message. If the plaintiff does not prove actual damage, the plaintiff is entitled to presumptive damages of five hundred dollars ($500) for each commercial electronic mail message that violates this chapter and that is sent by the defendant:

(A) to the plaintiff; or

(B) through the plaintiff's interactive computer service.

(3) The plaintiff's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

(e) A person outside Indiana who:

(1) initiates or assists the transmission of a commercial electronic mail message that violates this chapter; and

(2) knows or should know that the commercial electronic mail message will be received in Indiana;

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

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

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

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

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

(1) an interactive computer service;

(2) a telephone company;

(3) a CMRS provider (as defined in ~~IC 36-8-16.5-6);~~ **IC 36-8-16.6-6);**

(4) a cable operator (as defined in 47 U.S.C. 522(5)); or

(5) any other entity that primarily provides connectivity to an operator;

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

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

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

(1) An injunction to enjoin future violations of this chapter.

(2) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the commercial electronic mail message. If the plaintiff does not prove actual damage, the plaintiff is entitled to presumptive damages of five hundred dollars ($500) for each commercial electronic mail message that violates this chapter and that is sent by the defendant:

(A) to the plaintiff; or

(B) through the plaintiff's interactive computer service.

(3) The plaintiff's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

(e) A person outside Indiana who:

(1) initiates or assists the transmission of a commercial electronic mail message that violates this chapter; and

(2) knows or should know that the commercial electronic mail message will be received in Indiana;

submits to the jurisdiction of Indiana courts for purposes of this

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chapter.

SECTION 10. IC 36-1-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter:

"Leasing agent" means the board or officer of a political subdivision or agency with the power to lease structures.

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

"Structure" means:

(1) a building used in connection with the operation of a political subdivision; or

(2) a parking facility.

The term includes the site, the equipment, and appurtenances to the building or parking facility.

"System" means:

(1) a computer (as defined in IC 36-8-15-4 **before its expiration on January 1, 2012);**

(2) a communications system (as defined in IC 36-8-15-3(1) **before its expiration on January 1, 2012);** or

(3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

"Transportation project" means a road or highway project jointly undertaken by the Indiana department of transportation and any county through which a toll road project under IC 8-15-2 passes. A transportation project must be located within an area described in IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

SECTION 11. IC 36-7-4-405 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 405. (a) ADVISORY – AREA. Each plan commission shall:

(1) make recommendations to the legislative body or bodies concerning:

(A) the adoption of the comprehensive plan and amendments to the comprehensive plan;

(B) the adoption or text amendment of:

(i) an initial zoning ordinance;

(ii) a replacement zoning ordinance; and

(iii) a subdivision control ordinance;

(C) the adoption or amendment of a PUD district ordinance (as defined in section 1503 of this chapter); and

(D) zone map changes; and

(2) render decisions concerning and approve plats, replats, and amendments to plats of subdivisions under the 700 series of this chapter.

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(b) Each plan commission:

(1) shall assign street numbers to lots and structures;

(2) shall renumber lots and structures; and

(3) if the plan commission does not have the power under an ordinance adopted under subsection (c) to name or rename streets, may recommend the naming and renaming of streets to the executive.

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

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

(e) This subsection applies to unincorporated areas subject to the jurisdiction of no plan commission under this article. The county executive:

(1) must approve the assignment of street numbers to lots and structures; and

(2) may number or renumber lots and structures and name or rename streets.

(f) This subsection applies to areas located within a municipality that are subject to the jurisdiction of no plan commission under this article. The executive of the municipality:

(1) must approve the assignment of street numbers to lots and structures; and

(2) may number or renumber lots and structures and name or rename streets.

(g) An executive acting under subsection (e) or (f) shall name or rename streets:

(1) so that their names are easy to understand; and

(2) to avoid duplication or conflict with other names.

(h) If streets are named or renamed or lots and structures are numbered or renumbered under this section, the commission or executive that makes the naming or numbering decision shall notify:

(1) the circuit court clerk or board of registration;

(2) the ~~administrator of the enhanced emergency telephone system established under IC 36-8-16, if any;~~ **enhanced 911**

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advisory board established by IC 36-8-16.6-22.

(3) the United States Postal Service; and

(4) any person or body that the commission or executive considers appropriate to receive notice;

of its action no later than the last day of the month following the month in which the action is taken.

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

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

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

Chapter 16.6. Enhanced 911 Service

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

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

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

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

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

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

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

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used to place a 911 call.

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

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

(b) The term includes the following:

(1) Services commonly referred to as wireless.

(2) Services provided by a wireless real time two-way voice communication device, including radio-telephone communications used in:

(A) cellular telephone service;

(B) personal communications service; or

(C) the functional or competitive equivalent of a radio-telephone communications line used in:

(i) cellular telephone service;

(ii) a personal communications service; or

(iii) a network radio access line.

Sec. 6. As used in this chapter, "CMRS provider" means a provider that offers CMRS to subscribers in Indiana.

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

(b) The term includes both:

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

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

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

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

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

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

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Sec. 10. As used in this chapter, "fund" refers to the enhanced 911 system fund established by section 27 of this chapter.

Sec. 11. As used in this chapter, "interconnected VOIP service" has the meaning set forth in 47 CFR 9.3.

Sec. 12. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153(26).

Sec. 13. As used in this chapter, "prepaid voice communications service" means a right:

(1) to purchase voice communications service, either exclusively or in conjunction with other services;

(2) that must be paid for in advance; and

(3) that is sold in:

(A) units; or

(B) dollar amounts;

that decline with use and that are known on a continuous basis.

Sec. 14. As used in this chapter, "prepaid subscriber" refers to a subscriber of prepaid voice communications service who is issued an Indiana telephone number or an Indiana identification number for the service.

Sec. 15. As used in this chapter, "proprietary information" includes the following:

(1) Subscriber lists and related information.

(2) Technology descriptions, technical information, or trade secrets (as defined by IC 24-2-3-2).

(3) Information concerning the actual or developmental costs of an enhanced 911 system that is developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.

Sec. 16. (a) As used in this chapter, "provider" means a person or an entity, or an affiliate of a person or an entity, that:

(1) offers voice communications service to subscribers in Indiana; and

(2) provides, or is required by the Federal Communications Commission to provide, a caller with direct access to a PSAP through the placement of a 911 call.

(b) The term includes the following:

(1) Facilities based and nonfacilities based resellers of voice communications service.

(2) Any other provider of voice communications service through wireline or wireless means, regardless of whether the 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, including 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

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by the Association of Indiana Counties.

(C) One (1) member who represents VOIP providers.

(D) Three (3) members appointed from nominees jointly submitted by the executive committees of:

(i) the Indiana Chapter of the National Emergency Number Association; and

(ii) the Indiana Chapter of the Association of Public Safety Communication Officials International.

(3) The following five (5) members appointed by the speaker of the house of representatives:

(A) One (1) member who is a sheriff.

(B) Two (2) members who represent CMRS providers.

(C) 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.

(4) The following five (5) members appointed by the president pro tempore of the senate:

(A) One (1) member who is a chief of police.

(B) Two (2) members who represent CMRS providers.

(C) 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 two hundred thousand (200,000) local exchange access lines.

(c) This subsection applies to a member appointed under subsection (b)(2), (b)(3), or (b)(4). Each appointing authority shall ensure that the terms of the initial members appointed by the appointing authority are staggered. After the initial appointments, subsequent appointments shall be for four (4) year terms. A vacancy on the board shall be filled for the vacating member's unexpired term in the same manner as the original appointment, and a member of the board is eligible for reappointment.

(d) This subsection applies to a member appointed under subsection (b)(2), (b)(3), or (b)(4). A member shall submit the name of a designee to the board. The board shall maintain a list of approved designees. A member may appoint a listed designee to fill the member's position under subsection (b) or to act on behalf of the member at a meeting of the board. The designee serves at the pleasure of the appointing member.

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(e) The governor may at any time remove a member appointed under subsection (b)(2), (b)(3), or (b)(4) for misfeasance, nonfeasance, or malfeasance in office.

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

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

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

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

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

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

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

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

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

(5) In accordance with section 28(b) of this chapter, review the collection, disbursement, and use of the enhanced 911 fee.

(6) Commission periodic audits of eligible PSAPs, as required by section 35(d) of this chapter.

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

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

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

(8) Perform its duties under this chapter in a manner that is 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) Make grants from the fund to the appropriate state agencies for use in upgrading the state's emergency alert system to include:

(A) an enhanced satellite based network; or

(B) other appropriate technology and equipment necessary to make the emergency alert system effective on a timely basis in all parts of Indiana.

However, the board is authorized to make a grant under this subdivision only to the extent that it does not impair the board's ability to make the distributions to counties required under section 33 of this chapter.

(6) Adopt rules under IC 4-22-2 to implement this chapter.

(7) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.

(c) The board is subject to the procurement procedures set forth IC 5-22.

Sec. 26. (a) Not later than January 1, 2009, 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.

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(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:

(A) handset-based location technology (as defined in 47 CFR 20.3); and

(B) network-based location technology (as defined in 47 CFR 20.3);

including the use of global information systems or global positioning systems, in determining the location of callers who place 911 calls; and

(3) formulate strategies for the efficient and effective delivery of enhanced 911 service.

(c) The board shall maintain the plan required under this section in the offices of the treasurer of state. The board shall make the plan available:

(1) for public inspection and copying at the offices of the treasurer of state under IC 5-14-3; and

(2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

However, the access requirements of this subsection do not apply to any data or information in the plan that constitutes proprietary information or that is exempt from public disclosure under IC 5-14-3-4(a) or IC 5-14-3-4(b)(19).

(d) The board shall review and update the plan:

(1) as often as necessary to ensure that the information contained in the plan is accurate, current, and complete; but

(2) not less frequently than every twelve (12) months.

Sec. 27. (a) The enhanced 911 system fund is established for the purpose of creating and maintaining enhanced 911 systems in Indiana. The fund shall be administered by the board. The expenses of administering the fund shall be paid from money in the fund.

(b) The fund consists of the following:

(1) The enhanced 911 fee imposed on subscribers under section 29 of this chapter.

(2) Appropriations made by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

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(5) Money transferred to the fund under subsection (f).

(c) The board may invest money in the fund in the same manner as other funds of the state may be invested under IC 5-13. Subject to subsection (d), the board may also invest money in the fund in any of the following:

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

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

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

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

(A) These investments must be:

(i) Prime-1 commercial paper; and

(ii) banker's acceptance approved by banks' trust investment committees.

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

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

(e) Money in the fund, including money described in subsection (b)(4), at the end of a state fiscal year or at any other time does not revert to the state general fund or any other fund.

(f) Any funds that remain in the wireless emergency telephone system fund established by IC 36-8-16.5-21 (before its repeal on July 1, 2008) on July 1, 2008, shall be transferred by the treasurer of state to the fund.

Sec. 28. (a) The board shall select a third party to audit the fund every two (2) years to determine whether the fund is being managed in accordance with this chapter. The board shall pay for an audit by the third party auditor as an administrative cost of the board.

(b) Every twelve (12) months, in conjunction with updating the enhanced 911 state plan under section 26(d) of this chapter, the board shall review the collection, disbursement, and use of the enhanced 911 fee assessed under section 29 of this chapter. The

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purpose of the review is to ensure that the enhanced 911 fees collected do not exceed the amount reasonably necessary to provide adequate and efficient enhanced 911 service.

Sec. 29. (a) As used in this section "place of primary use", with respect to a standard subscriber, means the street address representative of where the subscriber's use of voice communications service primarily occurs, which must be:

(1) the residential street address or the primary business street address of the subscriber; or

(2) in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3).

(b) Beginning July 1, 2008, the board shall impose a monthly enhanced 911 fee on each:

(1) standard subscriber of voice communications service whose place of primary use is in Indiana; and

(2) prepaid subscriber of voice communications who is issued an Indiana telephone number or an Indiana identification number for the service.

(c) Subject to section 30 of this chapter, the amount of the initial fee imposed under this section is one dollar ($1).

(d) The monthly wireless emergency enhanced 911 fee assessed under IC 36-8-16.5 (before its repeal on July 1, 2008), is superseded by the fee assessed under this section, subject to section 30(a)(3) of this chapter.

(e) If:

(1) a county imposes a countywide enhanced emergency telephone system fee on June 30, 2008, under IC 36-8-16 (before its repeal on July 1, 2008); or

(2) a municipality imposes an enhanced emergency telephone system fee on June 30, 2008, under IC 36-8-16 (before its repeal on July 1, 2008);

the enhanced emergency telephone system fee imposed by the county or the municipality is superseded on July 1, 2008, by the fee assessed under this section, subject to section 30(a)(4) of this section.

(f) An additional fee relating to the provision of enhanced 911 service may not be levied or imposed by a state agency or a political subdivision.

(g) The enhanced 911 fee is exempt from state and local taxation.

Sec. 30. (a) The board may adjust the enhanced 911 fee that is assessed under section 29 of this chapter. The board shall assess the

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fee at a rate that ensures the collection of the amount needed:

(1) for the board to make the distributions to counties required under section 33 of this chapter;

(2) to develop and maintain Indiana's enhanced 911 systems;

(3) to pay any outstanding obligations of:

(A) the wireless enhanced 911 advisory board;

(B) a county; or

(C) a PSAP;

owed to any bondholders, third parties, or creditors under IC 36-8-16.5 (before its repeal on July 1, 2008); and

(4) to pay any outstanding obligations of:

(A) a county; or

(B) a municipality;

owed to any bondholders, third parties, or creditors under IC 36-8-16 (before its repeal on July 1, 2008).

(b) The fee assessed under section 29 of this chapter may not be raised or lowered more than two (2) times in a calendar year.

Sec. 31. (a) Each provider shall collect and remit the enhanced 911 fee assessed under section 29 of this chapter as follows:

(1) As part of its normal monthly billing process, a provider shall collect the fee from each standard subscriber and may list the fee as a separate line item on each bill. A provider shall collect the fee beginning with the first monthly billing cycle that begins after June 30, 2008. If a provider receives a partial payment for a monthly bill from a standard subscriber, the provider shall apply the payment against the amount the standard subscriber owes to the provider before applying the payment against the fee. The provider shall remit all fees collected under this subdivision to the board in accordance with section 32 of this chapter.

(2) For prepaid subscribers, a provider shall collect and remit the enhanced 911 fee each calendar month as follows:

(A) With respect to each new prepaid subscriber who:

(i) does not have an existing prepaid account with the provider; and

(ii) purchases prepaid voice communications service having a dollar value equal to or greater than the amount of the fee;

the provider shall collect the fee at the point of sale. The provider shall remit all fees collected under this subdivision to the board in accordance with section 32 of this chapter.

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(B) Excluding any new prepaid subscriber accounts described in clause (A), with respect to all of the provider's active prepaid subscriber accounts with a balance equal to or greater than the amount of the fee as of the last day of the calendar month, the provider shall remit to the board under section 32 of this chapter an amount equal to the fee amount multiplied by the number of active prepaid subscriber accounts described in this clause.

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

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

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

Sec. 32. (a) A provider may keep two percent (2%) of the enhanced 911 fee collected each month from each subscriber for the purpose of defraying the administrative costs of collecting the fee.

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

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

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

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

(3) If the county imposed a countywide fee under IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007, the amount remitted to the county by all service suppliers under IC 36-8-16-12 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007.

(4) If:

(A) the county did not impose a countywide fee under

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IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007; and

(B) one (1) or more municipalities in the county imposed a fee under IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007;

the amount remitted to all municipalities described in clause (B) under IC 36-8-16-12 during the state fiscal year ending June 30, 2007.

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

(1) before January 1, 2012, at least one (1) eligible PSAP; and

(2) after December 31, 2011, a PSAP authorized under section 39 of this chapter.

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

(1) before January 1, 2012, is identified:

(A) by a county under IC 36-8-16.5-40 (before its repeal on July 1, 2008), with respect to distributions made under this section before January 1, 2009; or

(B) by the board as part of the state enhanced 911 plan prepared under section 26(a)(2)(B) of this chapter, with respect to distributions made under this section after December 31, 2008; or

(2) after December 31, 2011, is the PSAP that is:

(A) located in the county; and

(B) authorized to serve all or part of the county under section 39 of this chapter.

(d) The board shall manage the fund in the following manner:

(1) Two cents ($0.02) of the enhanced 911 fee collected from each subscriber may be used by the board to recover the board's expenses in administering this chapter. However, to allow for full recovery of administration expenses, the board may increase the amount under this subdivision at such times as the board may adjust the monthly fee under section 30 of this chapter.

(2) Subject to subsection (e), the board shall distribute on a monthly basis to each eligible county an amount not less than the quotient of the county's base distribution divided by twelve (12). The board shall adopt rules under IC 4-22-2 to establish a distribution formula that ensures that each eligible county receives the monthly amount required by this

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subdivision. The rules adopted by the board under this subdivision may provide for:

(1) a part of the fee to be distributed to eligible counties based on each eligible county's percentage of the state's population;

(2) a part of the fee to be distributed equally among eligible counties;

(3) a combination of the distribution methodologies described in subdivisions (1) and (2); or

(4) any other distribution methodology that the board determines will ensure that each eligible county receives the monthly amount required by this subdivision.

(3) After making the distributions to eligible counties at the level required by subdivision (2), the board may deposit the remainder, if any, of the enhanced 911 fee collected from each subscriber into an escrow account to be used for costs associated with other enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by PSAPs. The board may invest money in the account in the manner prescribed by section 27 of this chapter and may use the proceeds of the investments for costs associated with other enhanced 911 services mandated by the FCC but not specified in the FCC order or to make distributions to eligible PSAPs under this section.

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

(1) For distributions made before January 1, 2012, the board may adjust the amount distributed to eligible counties under subsection (d)(2) at such times as the board may adjust the monthly fee under section 30 of this chapter, as long as the amounts distributed to eligible counties under subsection (d)(2) after the adjustment are proportional to the amounts distributed under subsection (d)(2) before the adjustment.

(2) After December 31, 2011, the monthly amount distributed to a particular eligible county under subsection (d)(2) may not exceed the amount reasonably necessary to operate and maintain in an adequate and efficient manner the PSAP authorized under section 39 of this chapter, as determined by the board under section 28(b) of this chapter.

Sec. 34. The distribution of enhanced 911 funds by the board to an eligible county under section 33 of this chapter must be

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deposited by the county treasurer in a separate fund set aside for the purposes allowed by section 35 of this chapter. The fund must be known as the _____ (insert name of county) enhanced 911 system fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this section. The county treasurer shall distribute money from the fund as follows:

(1) Before January 1, 2012:

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

(B) if the county contains more than one (1) eligible PSAP, in a manner that ensures that each eligible PSAP receives an amount that bears the same proportion to the total amount distributed to all PSAPs in the county under this clause that the amount the PSAP received before October 1, 2008, under:

(i) IC 36-8-16 (before its repeal on July 1, 2008); and

(ii) IC 36-8-16.5 (before its repeal on July 1, 2008);

bears to the total amount received by all PSAPs in the county before October 1, 2008, under IC 36-8-16 (before its repeal on July 1, 2008) and IC 36-8-16.5 (before its repeal on July 1, 2008). board under section 33(e)(1)(C), if the county contains more than one (1) eligible PSAP.

(2) After January 1, 2012, to the PSAP authorized under section 39 of this chapter.

Sec. 35. (a) An eligible PSAP may use the funds distributed to it by the county treasurer under section 34 of this chapter only for the following:

(1) The lease, purchase, or maintenance of enhanced 911 equipment, including necessary computer hardware, software, and data base equipment.

(2) Personnel expenses and training related to the maintenance and operation of the enhanced 911 system.

(3) The provision of enhanced 911 service, including:

(A) the rates associated with a provider's enhanced 911 system network services; and

(B) any charges or other payments owed to a provider under subsection (b).

(4) Educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service.

(5) If the PSAP has funds remaining after paying for any

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expenses described in subdivisions (1) through (4), the establishment and operation of an emergency telephone notification system under section 36 of this chapter.

(b) A PSAP that provides enhanced 911 service is responsible to a voice communications service provider for all enhanced 911 installation, service, equipment, operation, and maintenance charges owed to the provider. A PSAP may contract with a provider on terms agreed to by the PSAP and the provider.

(c) An eligible county or a PSAP may not use any proceeds from a distribution from the board under section 33 of this chapter to pay for any of the following:

(1) The lease or purchase of real estate.

(2) Cosmetic remodeling of emergency dispatch centers.

(3) The purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

(d) The board shall select a third party to audit each eligible PSAP every two (2) years to determine the PSAP's compliance with this section. The board shall pay for an audit required by this subsection as an administrative cost of the board. The board shall cause a report of each audit conducted under this subsection to be filed with the state board of accounts.

(e) In addition to the audits required under subsection (d), if:

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

(2) a majority of the board votes to conduct an audit of the county or the PSAP;

the board may contract with a third party auditor to audit the county or the PSAP to determine whether the county or the PSAP has used money received under this chapter in a manner consistent with this chapter. The board shall cause a report of each audit conducted under this subsection to be filed with the state board of accounts.

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

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

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

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

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

(1) the telephone number service address;

(2) the class of service; and

(3) a designation of listed, unlisted, or nonpublished;

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

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

Sec. 37. (a) A voice communications service provider shall, upon request, provide to a PSAP the necessary subscriber data to enable the PSAP to implement and operate an enhanced 911 system. A provider shall provide any subscriber data requested under this section at no cost to the requesting PSAP, the county in which the PSAP is located, or the board. Subscriber data provided to a PSAP for the purpose of implementing or updating an enhanced 911 system may be used only to identify:

(1) a subscriber;

(2) a subscriber's place of primary use (as defined in section 29(a) of this chapter); or

(3) both (1) and (2);

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

(b) After May 31, 1988, a contract entered into between a voice communications service provider and a subscriber who has an unlisted or nonpublished telephone number listing may not include

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a provision that prohibits the provider from providing the subscriber's telephone number to a PSAP for inclusion in an enhanced 911 system data base. A provider (other than a provider who before June 1, 1988, has contracted to not divulge a subscriber's unlisted or nonpublished telephone number) shall provide a requesting PSAP with the name, telephone number, and place of primary use (as defined in section 29(a) of this chapter) for each subscriber of the provider. A PSAP may not release a telephone number required to be provided under this subsection to any person except as provided in subsection (a).

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

(1) the contract contains a provision that prohibits the provider from providing the subscriber's telephone number to a PSAP for inclusion in an enhanced 911 system data base;

(2) the exclusion of the number from the data base would negate the purpose of this chapter; and

(3) the subscriber is notified of the proposed amendment or termination of that contract at least one hundred eighty (180) days before the provider takes that action.

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

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

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

(b) After December 31, 2011, a county may not contain more than one (1) PSAP.

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

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

(A) political subdivision; or

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(B) agency;

that operates a PSAP in the county; and

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

(A) other counties contiguous to the county;

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

(C) other:

(i) political subdivisions; or

(ii) agencies;

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

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

(1) subject to subsection (e), 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.

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

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

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

Sec. 41. Notwithstanding any other law, the board, a PSAP, a political subdivision, a voice communications service provider, or an employee, director, officer, or agent of a PSAP, political subdivision, voice communications service provider, or a member of the board or the board chair, or an employee, agent, or representative of the board chair is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, providing data for, operating, or providing enhanced 911 service in compliance with the requirements established by the FCC order, except in the case of willful or wanton misconduct.

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

(1) fire suppression and rescue;

(2) emergency medical or ambulance services;

(3) hazardous material, disaster, or major emergency occurrences; or

(4) law enforcement activities.

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

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

(1) causes the number 911 to be automatically dialed; or

(2) provides through a prerecorded message information regarding obtaining 911 emergency services.

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

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

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

(1) for a purpose other than obtaining public safety assistance; or

(2) in an effort to avoid charges for voice communications service;

commits a Class A misdemeanor.

(c) A person who:

(1) knowingly or intentionally uses an enhanced 911 system in a manner prohibited by subsection (b); and

(2) obtains voice communications service with a value of at least one hundred dollars ($100) from the use;

commits a Class D felony.

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

(1) A computer (as defined in IC 36-8-15-4 **before its expiration on January 1, 2012).**

(2) A communications system (as defined in IC 36-8-15-3(1) **before its expiration on January 1, 2012).**

(3) Mobile or remote equipment that is coordinated by or linked

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with a computer or communication system.

(4) Upon the request of:

(A) the fiscal body of an eligible entity having a fiscal body; or

(B) the governing body of an eligible entity not having a fiscal body;

security services provided by human or nonhuman means.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 36-8-16; IC 36-8-16.5; IC 36-8-21.

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

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

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

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

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

(1) Subject to subdivision (2), two (2) members of the wireless enhanced 911 advisory board appointed under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008) shall serve as the two (2) initial members of the board required to be appointed under IC 36-8-16.6-22(b)(3)(B), as added by this act. A member described in this subdivision

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shall serve on the board for the period that remains in the member's term under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008). Upon the expiration of the member's term under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008), the member is eligible for reappointment to the board by the speaker of the house of representatives under IC 36-8-16.6-22(b)(3)(B), as added by this act, subject to the requirement that the terms of the members first appointed by the speaker of the house of representatives under IC 36-8-16.6-22(b)(3)(B), as added by this act, must be staggered.

(2) One (1) member of the wireless enhanced 911 advisory board appointed under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008) shall serve as one (1) of the initial members of the board required to be appointed under IC 36-8-16.6-22(b)(4)(B), as added by this act. If the terms of the members of the wireless enhanced 911 advisory board appointed under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008) expire at different times, the member whose term first expires shall be the member who serves as an initial member of the board under this subdivision. The member described in this subdivision shall serve on the board for the period that remains in the member's term under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008). Upon the expiration of the member's term under IC 36-8-16.5-18(c)(3) (before its repeal by this act on July 1, 2008), 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.

(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

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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.

(7) 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 two hundred thousand (200,000) local exchange access lines, as required by IC 36-8-16.6-22(b)(4)(C), as added by this act.

(g) This SECTION expires January 1, 2012.

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

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

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

(d) This SECTION expires January 1, 2009.

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

(1) To pay any obligations owed to any bondholders, third parties, or creditors under IC 36-8-16.5 (before its repeal by this act on July 1, 2008).

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

(b) This SECTION expires January 1, 2009.

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

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

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

(b) The funds that remain in an emergency telephone system fund established by a municipality under IC 36-8-16-13 (before its repeal by this act on July 1, 2008) on July 1, 2008, shall be transferred to the enhanced 911 system fund established under IC 36-8-16.6-34, as added by this act, for the county in which the

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municipality is located. Any funds transferred under this subsection shall be used as follows:

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

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

(c) This SECTION expires January 1, 2009.

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

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

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

remains in existence until such time as all bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before January 1, 2012, are satisfied according to their terms.

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

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

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

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

(c) Notwithstanding the expiration of IC 36-8-15-18 on January 1, 2012, under this act, all property located within a public safety communications systems and computer facilities district in a county having a consolidated city remains subject to a special tax as provided for by IC 36-8-15-18 (before its expiration under this act on January 1, 2012) until such time as revenue from the special

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tax is no longer needed by the district to satisfy any bonds that were issued by the district before January 1, 2012.

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

(e) After December 31, 2011:

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

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

may not pledge revenue from any bonds issued or taxes levied under IC 36-8-15 (before its expiration under this act on January 1, 2012) before January 1, 2012.

SECTION 21. [EFFECTIVE UPON PASSAGE] **As used in this SECTION, "board" refers to the enhanced 911 advisory board established by IC 26-8-16.6-22, as added by this act.**

(b) As used in the SECTION, "eligible county" has the meaning set forth in IC 36-8-16.6-33(b), as added by this act.

(c) Notwithstanding IC 36-8-16.6-33(d)(2), as added by this act, the board shall adopt rules to establish a distribution formula for distributing the enhanced 911 fee to eligible counties as required by IC 36-8-16.6-33(d)(2), as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than July 1, 2008. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the board under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2010.

(c) This SECTION expires January 1, 2010.

SECTION 22. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred Senate Bill No. 359, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Replace the effective date in SECTION 20 with "[EFFECTIVE JANUARY 1, 2012]".

Page 2, line 18, delete "July" and insert "**January**".

Page 4, line 13, delete "July" and insert "**January**".

Page 4, line 33, delete "July" and insert "**January**".

Page 6, line 32, delete "July" and insert "**January**".

Page 12, line 16, delete "July" and insert "**January**".

Page 12, line 18, delete "July" and insert "**January**".

Page 14, line 14, delete "July" and insert "**January**".

Page 17, line 24, delete "service and" and insert "**service, including**".

Page 19, line 32, delete "revenues and expenditures associated with the operation" and insert "**collection, disbursement, and use of the enhanced 911 fee.**

(6) Commission periodic audits of eligible PSAPs, as required by section 35(d) of this chapter.".

Page 19, delete lines 33 through 35.

Page 19, line 36, delete "(6)" and insert "**(7)**".

Page 19, line 41, delete "(7)" and insert "**(8)**".

Page 20, between lines 11 and 12, begin a new line block indented and insert:

"**(5) Make grants from the fund to the appropriate state agencies for use in upgrading the state's emergency alert system to include:**

(A) an enhanced satellite based network; or

(B) other appropriate technology and equipment necessary to make the emergency alert system effective on a timely basis in all parts of Indiana.

However, the board is authorized to make a grant under this subdivision only to the extent that it does not impair the board's ability to make the distributions to counties required under section 33 of this chapter.".

Page 20, line 12, delete "(5)" and insert "**(6)**".

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Page 20, delete lines 13 through 18.

Page 20, line 19, delete "(6)" and insert "**(7)**".

Page 20, line 21, delete "September 1, 2008," and insert "**January 1, 2009,**".

Page 20, between lines 20 and 21, begin a new paragraph and insert:

"**(c) The board is subject to the procurement procedures set forth IC 5-22.**".

Page 21, line 24, delete "two (2) years" and insert "**twelve (12) months**".

Page 21, between lines 35 and 36, begin a new line block indented and insert:

"**(5) Money transferred to the fund under subsection (f).**".

Page 22, line 19, after "fund" insert "**, including money described in subsection (b)(4),**".

Page 22, line 19, after "year" insert "**or at any other time**".

Page 22, line 20, delete "." and insert "**or any other fund.**".

Page 22, between lines 20 and 21, begin a new paragraph and insert:

"**(f) Any funds that remain in the wireless emergency telephone system fund established by IC 36-8-16.5-21 (before its repeal on July 1, 2008) on July 1, 2008, shall be transferred by the treasurer of state to the fund.**".

Page 22, line 26, delete "two (2) years," and insert "**twelve (12) months,**".

Page 22, line 31, delete "collected:" and insert "**collected do not exceed the amount reasonably necessary to provide adequate and efficient enhanced 911 service.**".

Page 22, delete lines 32 through 35.

Page 23, line 2, delete "Except as provided in subsection (c), beginning" and insert "**Beginning**".

Page 23, delete lines 9 through 15.

Page 23, line 16, delete "(d)" and insert "**(c)**".

Page 23, line 18, delete "(e)" and insert "**(d)**".

Page 23, line 22, delete "(f)" and insert "**(e)**".

Page 23, line 33, delete "(g)" and insert "**(f)**".

Page 23, line 36, delete "(h)" and insert "**(g)**".

Page 24, line 14, delete "one (1) time" and insert "**two (2) times**".

Page 25, line 17, delete "one and four-tenths cents" and insert "**two percent (2%)**".

Page 25, line 18, delete "($0.014)".

Page 25, between lines 32 and 33, begin a new line block indented and insert:

"**(3) If the county imposed a countywide fee under**

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IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007, the amount remitted to the county by all service suppliers under IC 36-8-16-12 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007.

(4) If:

(A) the county did not impose a countywide fee under IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007; and

(B) one (1) or more municipalities in the county imposed a fee under IC 36-8-16-5 (before its repeal on July 1, 2008) during the state fiscal year ending June 30, 2007;

the amount remitted to all municipalities described in clause (B) under IC 36-8-16-12 during the state fiscal year ending June 30, 2007.".

Page 25, line 35, delete "July" and insert "**January**".

Page 25, line 36, delete "June 30, 2012," and insert "**December 31, 2011,**".

Page 25, line 41, delete "July" and insert "**January**".

Page 26, line 2, delete "September 1, 2008;" and insert "**January 1, 2009;**".

Page 26, line 6, delete "August 31, 2008;" and insert "**December 31, 2008;**".

Page 26, line 7, delete "June 30, 2012," and insert "**December 31, 2011,**".

Page 26, line 16, delete "time" and insert "**times**".

Page 26, line 19, delete "seventy-six and six-tenths cents" and insert **"the board shall distribute on a monthly basis to each eligible county an amount not less than the quotient of the county's base distribution divided by twelve (12). The board shall adopt rules under IC 4-22-2 to establish a distribution formula that ensures that each eligible county receives the monthly amount required by this subdivision. The rules adopted by the board under this subdivision may provide for:**

(1) a part of the fee to be distributed to eligible counties based on each eligible county's percentage of the state's population;

(2) a part of the fee to be distributed equally among eligible counties;

(3) a combination of the distribution methodologies described in subdivisions (1) and (2); or

(4) any other distribution methodology that the board determines will ensure that each eligible county receives the

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monthly amount required by this subdivision.".

Page 26, delete lines 20 through 36.

Page 26, line 37, delete "The board shall deposit the remainder" and insert "**After making the distributions to eligible counties at the level required by subdivision (2), the board may deposit the remainder, if any,**".

Page 27, line 7, delete "July 1, 2012, the following" and insert "**January 1, 2012, the board may adjust the amount distributed to eligible counties under subsection (d)(2) at such times as the board may adjust the monthly fee under section 30 of this chapter, as long as the amounts distributed to eligible counties under subsection (d)(2) after the adjustment are proportional to the amounts distributed under subsection (d)(2) before the adjustment.**".

Page 27, delete lines 8 through 23.

Page 27, line 24, delete "June 30, 2012, the" and insert "**December 31, 2011, the monthly**".

Page 27, line 25, delete "during a state fiscal".

Page 27, line 26, delete "year".

Page 27, line 40, delete "July" and insert "**January**".

Page 28, line 1, delete "to each eligible PSAP in the county as directed by the" and insert "**if the county contains more than one (1) eligible PSAP, in a manner that ensures that each eligible PSAP receives an amount that bears the same proportion to the total amount distributed to all PSAPs in the county under this clause that the amount the PSAP received before October 1, 2008, under:**

(i) IC 36-8-16 (before its repeal on July 1, 2008); and

(ii) IC 36-8-16.5 (before its repeal on July 1, 2008);

bears to the total amount received by all PSAPs in the county before October 1, 2008, under IC 36-8-16 (before its repeal on July 1, 2008) and IC 36-8-16.5 (before its repeal on July 1, 2008).".

Page 28, line 4, delete "July" and insert "**January**".

Page 28, line 37, delete "If:" and insert "**The board shall select a third party to audit each eligible PSAP every two (2) years to determine the PSAP's compliance with this section. The board shall pay for an audit required by this subsection as an administrative cost of the board. The board shall cause a report of each audit conducted under this subsection to be filed with the state board of accounts.**

(e) In addition to the audits required under subsection (d), if:".

Page 29, line 4, after "chapter." insert "**The board shall cause a report of each audit conducted under this subsection to be filed with the state board of accounts.**".

C o p y

Page 29, line 39, after "system." insert "**A provider shall provide any subscriber data requested under this section at no cost to the requesting PSAP, the county in which the PSAP is located, or the board.**".

Page 30, line 25, delete "subscriber" and insert "**provider**".

Page 31, line 3, delete "July" and insert "**January**".

Page 31, line 4, delete "June 30, 2012," and insert "**December 31, 2011,**".

Page 31, line 6, delete "July" and insert "**January**".

Page 31, line 42, delete "provider, a local exchange carrier," and insert "**voice communications service provider**,".

Page 32, line 2, delete "provider, or a local exchange carrier," and insert "**voice communications service provider**,".

Page 33, line 7, delete "July" and insert "**January**".

Page 33, line 9, delete "July" and insert "**January**".

Page 36, delete lines 11 through 23.

Page 36, line 24, delete "(c)" and insert "**(b)**".

Page 36, line 29, delete "(d)" and insert "**(c)**".

Page 36, line 33, delete "(e)" and insert "**(d)**".

Page 37, line 34, delete "July" and insert "**January**".

Page 37, line 37, delete "July" and insert "**January**".

Page 37, line 37, delete "and" and insert "**or**".

Page 37, line 40, delete "July" and insert "**January**".

Page 37, line 41, delete "remain" and insert "**remains**".

Page 38, line 1, delete "July" and insert "**January**".

Page 38, line 3, delete "July" and insert "**January**".

Page 38, line 7, delete "July" and insert "**January**".

Page 38, line 10, delete "July" and insert "**January**".

Page 38, line 12 delete "July" and insert "**January**".

Page 38, line 16, delete "July" and insert "**January**".

Page 38, line 17, delete "July" and insert "**January**".

Page 38, line 22, delete "July" and insert "**January**".

Page 38, line 24, delete "July" and insert "**January**".

Page 38, line 25, delete "July" and insert "**January**".

Page 38, line 30, delete "July" and insert "**January**".

Page 38, line 33, delete "July" and insert "**January**".

Page 38, line 34, delete "June 30, 2012" and insert "**December 31, 2011,**".

Page 38, line 37, delete "July" and insert "**January**".

Page 38, line 40, delete "July" and insert "**January**".

Page 38, line 42, delete "July" and insert "**January**".

Page 39, line 1, delete "July" and insert "**January**".

C o p y

Page 39, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE UPON PASSAGE] **As used in this SECTION, "board" refers to the enhanced 911 advisory board established by IC 26-8-16.6-22, as added by this act.**

(b) As used in the SECTION, "eligible county" has the meaning set forth in IC 36-8-16.6-33(b), as added by this act.

(c) Notwithstanding IC 36-8-16.6-33(d)(2), as added by this act, the board shall adopt rules to establish a distribution formula for distributing the enhanced 911 fee to eligible counties as required by IC 36-8-16.6-33(d)(2), as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than July 1, 2008. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the board under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2010.

(c) This SECTION expires January 1, 2010.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 359 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 2.

C o p y