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# HOUSE BILL No. 1246

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-30-2-156.2; IC 36-8.

**Synopsis:** Wireless E911 fees. Abolishes the wireless enhanced 911 advisory board (board) as of July 1, 2010. Transfers responsibility for maintaining and improving a statewide enhanced 911 network from the board to the department of homeland security (department). Provides that the amount of the wireless emergency enhanced 911 fee is \$0.50 per month for each telephone number assigned to a commercial mobile radio service (CMRS) subscriber whose place of primary use is in Indiana. Provides that fees collected by CMRS providers after June 30, 2010, shall be remitted to the department of state revenue, rather than the board, for deposit in the wireless emergency telephone system fund. Provides that after June 30, 2010, the part of the fees that are: (1) collected by the state and remaining after the required distributions to counties; and (2) deposited into an escrow account by the treasurer of state; shall be used by the department to maintain and improve a statewide enhanced 911 network. Requires a seller of prepaid wireless telecommunications service to collect at the point of sale an enhanced prepaid wireless charge (charge) of \$0.25 per retail transaction. Requires the seller to remit the charge to the department of state revenue for deposit in the wireless emergency telephone system fund. Specifies how the charges that are collected and deposited in the fund are to be distributed. Repeals provisions: (1) establishing the board; and (2) providing for the recovery of certain costs incurred by CMRS providers before July 1, 2005, to implement wireless E911. Repeals other provisions made obsolete by the elimination of the board.

**Effective:** Upon passage; July 1, 2010.

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## Pierce

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January 12, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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**HOUSE BILL No. 1246**



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

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

1 SECTION 1. IC 34-30-2-156.2 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2010]: **Sec. 156.2. IC 36-8-16.6-18**  
4 **(Concerning sellers of prepaid wireless telecommunications service**  
5 **for provision of 911 or wireless 911 service and lawful assistance**  
6 **to law enforcement officers).**

7 SECTION 2. IC 36-8-16.5-6.2 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2010]: **Sec. 6.2. As used in this chapter,**  
10 **"department" refers to the department of homeland security**  
11 **established by IC 10-19-2-1.**

12 SECTION 3. IC 36-8-16.5-14 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. As used in this  
14 chapter, "subscriber" refers to a standard subscriber ~~or a prepaid~~  
15 ~~subscriber~~ of CMRS service.

16 SECTION 4. IC 36-8-16.5-21 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. (a) The wireless



1 emergency telephone system fund is established for the purpose of  
2 creating, ~~and~~ maintaining, **and improving** an enhanced wireless 911  
3 system.

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

6 (c) **Subject to section 23 of this chapter, the treasurer of state**  
7 **shall invest the money in the fund not currently needed to meet the**  
8 **obligations of the fund in the same manner as other public money**  
9 **may be invested.**

10 (d) **Money in the fund at the end of a state fiscal year does not**  
11 **revert to the state general fund.**

12 SECTION 5. IC 36-8-16.5-22 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. The fund consists  
14 of the following:

15 (1) Service charges assessed on CMRS users in the state under  
16 section 25.5 of this chapter.

17 (2) Appropriations made by the general assembly.

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

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

20 (5) **Enhanced prepaid wireless charges collected and remitted**  
21 **under IC 36-8-16.6-12.**

22 SECTION 6. IC 36-8-16.5-23 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) The ~~board~~  
24 **treasurer of state** may invest money in the fund in the same manner  
25 as other funds of the state may be invested under IC 5-13. In addition,  
26 the ~~board~~ **treasurer of state** may invest money in the fund in any of the  
27 following:

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

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

32 (B) The ~~board~~ **treasurer of state** shall establish minimum  
33 quality rating standards and maximum purchase amount  
34 standards for corporate issues.

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

37 (A) These investments must be:

38 (i) Prime-1 commercial paper; and

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

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

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

6 SECTION 7. IC 36-8-16.5-24, AS AMENDED BY P.L.146-2005,  
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2010]: Sec. 24. (a) The ~~board~~ **state board of accounts** shall  
9 ~~select a third party to~~ audit the fund every two (2) years to determine  
10 whether the fund is being managed in accordance with this chapter.  
11 The board shall pay for an audit by the third party auditor as an  
12 administrative cost of the board:

13 (b) Every two (2) years, the board shall review wireless 911 service  
14 in Indiana, including the collection, disbursement, and use of the  
15 wireless emergency enhanced 911 fee assessed under section 25.5 of  
16 this chapter. The purpose of the review is to ensure that the 911 fees:

- 17 (1) do not exceed the amount reasonably necessary to provide  
18 adequate and efficient wireless 911 service; and
- 19 (2) are used only for the purposes set forth in this chapter.

20 The board shall adopt a review conducted under this subsection:

21 SECTION 8. IC 36-8-16.5-25.5 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25.5. (a) As used in this  
23 section, "customer" and "place of primary use" have the meanings set  
24 forth in IC 6-8.1-15.

25 (b) Except as provided in section 34 of this chapter, ~~the board shall~~  
26 ~~assess there is assessed~~ a monthly wireless emergency enhanced 911  
27 fee on each CMRS subscriber that is a customer having a place of  
28 primary use in Indiana. A customer's place of primary use shall be  
29 determined in the manner provided by IC 6-8.1-15.

30 (c) **The monthly wireless emergency enhanced 911 fee is**  
31 **assessed with respect to each telephone number that:**

- 32 (1) is assigned to a subscriber described in subsection (b); and
- 33 (2) is used to provide CMRS service to the subscriber.

34 (d) **The amount of the wireless emergency enhanced 911 fee is**  
35 **fifty cents (\$0.50) per month for each telephone number described**  
36 **in subsection (c).**

37 (e) **The wireless emergency enhanced 911 fee does not apply to**  
38 **a prepaid subscriber in a retail transaction under IC 36-8-16.6.**

39 SECTION 9. IC 36-8-16.5-28 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. (a) **As used in this**  
41 **section, "board" refers to the wireless enhanced 911 advisory**  
42 **board established by section 18 of this chapter (before its repeal on**

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**July 1, 2010).**

**(b) On July 1, 2010:**

- (1) the board is abolished; and**
- (2) except as otherwise provided in this chapter, all duties and powers:**

**(A) conferred on the board by this chapter; or**

**(B) otherwise assumed by the board;**

**in connection with maintaining and improving a statewide enhanced 911 network are transferred to the department.**

**(c) The following apply on July 1, 2010:**

**(1) All property, assets, funds, equipment, records, rights, contracts, obligations, and liabilities of the board are transferred to or assumed by the department.**

**(2) Any employees of the board become employees of the department. For purposes of this subdivision, a board member described in section 18(c) of this chapter (before its repeal on July 1, 2010) is not an employee of the board.**

**(3) Any outstanding indebtedness incurred by the board (or by any entity on behalf of the board) before July 1, 2010, shall be assumed, defeased, paid, or refunded by the department, as appropriate. Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness described in this subdivision, the department is not required to comply with any other statutory procedures or approvals that may apply when an agency incurs indebtedness. The rights of creditors with respect to the board's indebtedness, or with respect to any undertakings of the board with respect to that indebtedness, remain the same although the powers, duties, agreements, and liabilities of the board have been transferred to the department, and the department is considered to have assumed all those powers, duties, agreements, and liabilities.**

**(4) The term of office of all board members described in section 18(c) of this chapter (before its repeal on July 1, 2010) terminates.**

**(~~a~~) (d) After June 30, 2010, the ~~board~~ department may do the following to implement this chapter maintain and improve a statewide enhanced wireless 911 network:**

- (1) Enter into or assume contracts, including contracts:**
  - (A) for professional services, including technical, engineering, or network services; and**
  - (B) for the purchase of supplies, equipment, or services and**

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- 1                   **other than professional services.**
- 2                   ~~(C) to acquire office space.~~
- 3                   (2) Hire staff.
- 4                   (3) Adopt rules under IC 4-22-2.
- 5                   (4) Take other necessary or convenient actions to ~~implement this~~
- 6                   ~~chapter~~ **maintain and improve a statewide enhanced wireless**
- 7                   **911 network** that are not inconsistent with Indiana law.

8                   SECTION 10. IC 36-8-16.5-29 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. An additional fee  
 10 relating to the provision of wireless 911 service may not be levied by  
 11 a state agency or local unit of government. **An enhanced prepaid**  
 12 **wireless charge (as defined in IC 36-8-16.6-3) is not considered an**  
 13 **additional fee relating to the provision of wireless 911 service for**  
 14 **purposes of this section.**

15                   SECTION 11. IC 36-8-16.5-30.5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 30.5. (a) As used in this  
 17 section, "customer" and "place of primary use" have the meanings set  
 18 forth in IC 6-8.1-15.

19                   (b) Except as provided in section 34 of this chapter, ~~each~~ a CMRS  
 20 provider shall, **as part of its normal monthly billing process**, collect  
 21 the wireless emergency enhanced 911 fee assessed under section 25.5  
 22 of this chapter ~~as follows (1) As part of its normal monthly billing~~  
 23 ~~process; a CMRS provider shall collect the fee from each standard~~  
 24 ~~subscriber that is a customer having a place of primary use in Indiana.~~  
 25 **and A CMRS provider shall collect a separate fee for each**  
 26 **telephone number that is:**

- 27                   **(1) assigned by the provider to a subscriber described in this**
- 28                   **subsection; and**
- 29                   **(2) used to provide CMRS to the subscriber.**

30                   A CMRS provider may list the fee as a separate line item on each bill.  
 31 A customer's place of primary use shall be determined in the manner  
 32 provided by IC 6-8.1-15. If a CMRS provider receives a partial  
 33 payment for a monthly bill from a CMRS standard subscriber, the  
 34 CMRS provider shall apply the payment against the amount the CMRS  
 35 standard subscriber owes to the CMRS provider before applying the  
 36 payment against the fee.

37                   ~~(2) A CMRS provider shall collect and remit to the board under~~  
 38 ~~section 36 of this chapter fees from its prepaid subscribers in a~~  
 39 ~~total amount equal to the fee amount multiplied by the number of~~  
 40 ~~active prepaid subscriber accounts on the last day of each~~  
 41 ~~calendar month.~~

42                   **(c) This section does not apply to a prepaid subscriber in a retail**

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**transaction under IC 36-8-16.6.**

SECTION 12. IC 36-8-16.5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 32. A CMRS provider is not required to take legal action to enforce the collection of the wireless emergency enhanced 911 fee for which a subscriber is billed. However, a collection action may be initiated by the ~~board~~ **state**. A court finding for the ~~board~~ **state** in the action may award reasonable costs and attorney's fees associated with the collection action.

SECTION 13. IC 36-8-16.5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. **(a)** A fee collected by a CMRS provider under this chapter **before July 1, 2010**, less the administrative fee described in section 35 of this chapter, 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. **However, if:**

- (1) a fee is collected by a CMRS provider before July 1, 2010;**
- (2) the date that is sixty (60) days after the end of the calendar month in which the fee is collected occurs after June 30, 2010;**
- and**
- (3) the CMRS provider does not remit the fee to the board before July 1, 2010;**

**the CMRS provider shall remit the fee to the department of state revenue, in the manner prescribed by the department of state revenue, not later than the date that is sixty (60) days after the end of the calendar month in which the fee is collected.**

**(b) A fee collected by a CMRS provider under this chapter after June 30, 2010, less the administrative fee described in section 35 of this chapter, must be remitted to the department of state revenue for deposit into the fund at the time and in the manner prescribed by the department.**

**(c) A CMRS provider is subject to the same audit and appeal procedures under IC 6-8.1 with respect to the collection and remittance of wireless emergency enhanced 911 fees as with collection and remittance of the state gross retail tax under IC 6-2.5.**

**(d) The department of state revenue shall adopt any forms or procedures necessary to implement this section not later than June 1, 2010.**

SECTION 14. IC 36-8-16.5-39, AS AMENDED BY P.L.146-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 39. **(a)** Except as provided by section 26 of this chapter and subsections (b) and (c), the fund must be managed in the

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1 following manner:

2 (1) Three cents (\$0.03) of the wireless emergency 911 fee

3 collected from each subscriber must be deposited in an escrow

4 account to be used to reimburse:

5 (A) CMRS providers; PSAPs; and the board for costs

6 associated with implementation of phase two (2) of the FCC

7 order; and

8 (B) the board for costs associated with other wireless enhanced

9 911 services mandated by the FCC and specified in the FCC

10 order but not incurred by CMRS providers or PSAPs.

11 A CMRS provider or a PSAP may recover costs under this

12 chapter if the costs are incurred before July 1, 2005, and invoiced

13 to the board not later than December 31, 2005. The board may

14 invest money in the account in the manner prescribed by section

15 23 of this chapter and may use the proceeds of the investments to

16 reimburse CMRS providers and PSAPs under this subdivision.

17 (2) At least twenty-five cents (\$0.25) of the wireless emergency

18 911 fee collected from each subscriber must be deposited in an

19 escrow account and used to reimburse CMRS providers for the

20 actual costs incurred by the CMRS providers before July 1, 2005;

21 in complying with the wireless 911 requirements established by

22 the FCC order and rules that are adopted by the FCC under the

23 FCC order, including costs and expenses incurred in designing;

24 upgrading; purchasing; leasing; programming; installing; testing;

25 or maintaining all necessary data; hardware; and software

26 required to provide service as well as the costs of operating the

27 service. The board may invest money in the account in the manner

28 prescribed by section 23 of this chapter and may use the proceeds

29 of the investments to reimburse CMRS providers under this

30 subdivision. The CMRS provider may only request funds for true

31 cost recovery. The board may increase the amount held in escrow

32 under this subdivision not more than one (1) time a calendar year.

33 If the board adjusts the wireless emergency 911 fee under section

34 26(a) of this chapter within a calendar year, an adjustment to the

35 amount held in escrow under this subdivision for the calendar

36 year must be made at that time.

37 (3) Two percent (2%) of the wireless emergency 911 fee collected

38 from each subscriber may be used by the board to recover the

39 board's expenses in administering this chapter. However, the

40 board may increase this percentage at the time the board may

41 adjust the monthly fee assessed against each subscriber to allow

42 for full recovery of administration expenses.

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(4) The remainder of the wireless emergency 911 fee collected from each subscriber must be distributed in the following manner:

(A) The board shall distribute on a monthly basis to each county containing one (1) or more eligible PSAPs, as identified by the county in the notice required under section 40 of this chapter, a part of the remainder based upon the county's percentage of the state's population (as reported in the most recent official United States census). A county must use a distribution received under this clause to make distributions to PSAPs that:

(i) are identified by the county under section 40 of this chapter as eligible for distributions; and

(ii) accept wireless enhanced 911 service; for actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules:

(B) The amount of the fee remaining, if any, after the distributions required under clause (A) must be distributed in equal shares between the escrow accounts established under subdivisions (1) and (2):

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

(1) For purposes of acting under this subsection, the board must have a quorum consisting of at least one (1) member appointed under section 18(c)(2) of this chapter and at least one (1) member appointed under section 18(c)(3) of this chapter.

(2) A transfer under this subsection must be approved by the affirmative vote of:

(A) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(2) of this chapter; and

(B) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(3) of this chapter.

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

(4) The board may not make a transfer that:  
(A) impairs cost recovery by CMRS providers or PSAPs; or  
(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

(c) If all CMRS providers have been reimbursed for their costs

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1 under this chapter; and the fee has been reduced under section 26(c) of  
 2 this chapter; the board shall manage (a) The fund shall be managed in  
 3 the following manner with respect to fees collected from subscribers  
 4 under this chapter:

5 (1) One cent (\$0.01) of the wireless emergency 911 fee collected  
 6 from each subscriber may be used by the board to recover the  
 7 board's expenses in administering this chapter. However, the  
 8 board may increase this amount at the time the board may adjust  
 9 the monthly fee assessed against each subscriber to allow for full  
 10 recovery of administration expenses. shall be distributed by the  
 11 auditor of state to the department for the department's use in  
 12 maintaining and improving a statewide enhanced wireless 911  
 13 network.

14 (2) Thirty-eight and three-tenths cents (\$0.383) of the wireless  
 15 emergency 911 fee collected from each subscriber must be  
 16 distributed by the auditor of state to each county containing at  
 17 least one (1) PSAP, as identified in the county notice required by  
 18 section 40 of this chapter. The board auditor of state shall make  
 19 these distributions in the following manner:

20 (A) The board auditor of state shall distribute on a monthly  
 21 basis to each eligible county thirty-four and four-tenths cents  
 22 (\$0.344) of the wireless emergency 911 fee based upon the  
 23 county's percentage of the state's population.

24 (B) The board auditor of state shall distribute on a monthly  
 25 basis to each eligible county three and nine-tenths cents  
 26 (\$0.039) of the wireless emergency 911 fee equally among the  
 27 eligible counties. A county must use a distribution received  
 28 under this clause to reimburse PSAPs that:

29 (i) are identified by the county under section 40 of this  
 30 chapter as eligible for distributions; and

31 (ii) accept wireless enhanced 911 service;

32 for actual costs incurred by the PSAPs in complying with the  
 33 wireless enhanced 911 requirements established by the FCC  
 34 order and rules.

35 (c) (3) The board department of state revenue shall deposit the  
 36 remainder of the wireless emergency 911 fee collected from each  
 37 subscriber into an escrow account to be used by the department  
 38 for costs associated with other wireless enhanced 911 services  
 39 mandated by the FCC and specified in the FCC order but not  
 40 incurred by PSAPs: maintaining and improving a statewide  
 41 enhanced wireless 911 network. The board treasurer of state  
 42 may invest money in the account in the manner prescribed by

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1 section 23 of this chapter and ~~may use~~ **shall return** the proceeds  
 2 of the investments for costs associated with other wireless  
 3 enhanced 911 services mandated by the FCC but not specified in  
 4 the FCC order or to make distributions to PSAPs under this  
 5 section: **to the account for use by the department.**

6 (3) If the fee has been reduced under section 26(c) of this chapter,  
 7 the board shall determine how money remaining in the accounts  
 8 or money for uses described in subsection (a) is to be allocated  
 9 into the accounts described in this subsection or used for  
 10 distributions under this subsection.

11 This subsection does not affect the transfer provisions set forth in  
 12 subsection (b):

13 (b) **The fund shall be managed in the following manner with**  
 14 **respect to enhanced prepaid wireless charges collected after June**  
 15 **30, 2010, by the department of state revenue under IC 36-8-16.6:**

16 (1) **One-half cent (\$0.005) of the enhanced prepaid wireless**  
 17 **charge collected from each consumer shall be distributed by**  
 18 **the auditor of state to the department for the department's**  
 19 **use in maintaining and improving a statewide enhanced**  
 20 **wireless 911 network.**

21 (2) **Nineteen and two-tenths cents (\$0.192) of the enhanced**  
 22 **prepaid wireless charge collected from each consumer must**  
 23 **be distributed by the auditor of state to each county**  
 24 **containing at least one (1) PSAP, as identified in the county**  
 25 **notice required by section 40 of this chapter. The auditor of**  
 26 **state shall make these distributions in the following manner:**

27 (A) **The auditor of state shall distribute on a monthly basis**  
 28 **to each eligible county seventeen and two-tenths cents**  
 29 **(\$0.172) of the enhanced prepaid wireless charge based**  
 30 **upon the county's percentage of the state's population.**

31 (B) **The auditor of state shall distribute on a monthly basis**  
 32 **to each eligible county two cents (\$0.02) of the enhanced**  
 33 **prepaid wireless charge equally among the eligible**  
 34 **counties. A county must use a distribution received under**  
 35 **this clause to reimburse PSAPs that:**

36 (i) **are identified by the county under section 40 of this**  
 37 **chapter as eligible for distributions; and**

38 (ii) **accept wireless enhanced 911 service;**

39 **for actual costs incurred by the PSAPs in complying with**  
 40 **the wireless enhanced 911 requirements established by the**  
 41 **FCC order and rules.**

42 (3) **The department of state revenue shall deposit the**

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1 remainder of the enhanced prepaid wireless charge collected  
2 from each consumer into the escrow account described in  
3 subsection (a)(3) for the purpose specified in subsection (a)(3).

4 SECTION 15. IC 36-8-16.5-40 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 40. To be eligible to  
6 receive distributions from the fund under section 39 of this chapter, a  
7 PSAP must comply with the wireless enhanced 911 requirements  
8 established by the FCC order and rules. A county containing one (1) or  
9 more eligible PSAPs shall submit a written notice to:

- 10 (1) the wireless enhanced 911 advisory board established by
- 11 section 18 of this chapter (before its repeal on July 1, 2010), in
- 12 the case of a notice submitted before July 1, 2010; or
- 13 (2) the auditor of state, in the case of a notice submitted after
- 14 June 30, 2010;

15 that identifies each PSAP that complies with the FCC order and rules.  
16 Distributions under section 39 of this chapter to a county containing  
17 one (1) or more eligible PSAPs must begin in the first full month after  
18 the board or the auditor of state, as appropriate, receives the  
19 county's written notice under this section. The county treasurer shall  
20 deposit the distributions as prescribed in section 43 of this chapter.

21 SECTION 16. IC 36-8-16.5-41, AS AMENDED BY P.L.137-2008,  
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2010]: Sec. 41. (a) A PSAP shall use its distribution made  
24 under section 39 of this chapter for the lease, purchase, or maintenance  
25 of wireless enhanced emergency telephone equipment, including:

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

32 (b) If:  
33 (1) the board receives a written complaint alleging that a PSAP  
34 has used money received under this chapter in a manner that is  
35 inconsistent with this chapter; and

36 (2) a majority of the board votes to conduct an audit of the PSAP;  
37 the board may contract with a third party auditor to audit the PSAP to  
38 determine whether the PSAP has used money received under this  
39 chapter in a manner consistent with this chapter:

40 (c) (b) The state board of accounts shall audit the expenditures of  
41 wireless emergency enhanced 911 fees made during each of the  
42 following calendar years by each PSAP that received distributions

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1 under section 39 of this chapter during the following calendar years:

2 (1) The calendar year ending December 31, 2005.

3 (2) The calendar year ending December 31, 2006.

4 (3) The calendar year ending December 31, 2007.

5 Not later than November 1, 2008, the state board of accounts shall  
6 report to the regulatory flexibility committee established by  
7 IC 8-1-2.6-4 on the audits conducted under this subsection.

8 ~~(d)~~ (c) The state board of accounts annually shall audit the  
9 expenditures of wireless emergency enhanced 911 fees made during  
10 the immediately preceding calendar year by each PSAP that received  
11 distributions under section 39 of this chapter during the immediately  
12 preceding calendar year. The state board of accounts shall conduct the  
13 first audits required by this subsection with respect to expenditures of  
14 wireless emergency enhanced 911 fees made during the calendar year  
15 ending December 31, 2008.

16 ~~(e)~~ (d) In conducting the audits required under subsections ~~(c)~~ (b)  
17 and ~~(d)~~ (c), the state board of accounts shall determine whether the  
18 expenditures made by each PSAP are in compliance with subsection  
19 (a).

20 SECTION 17. IC 36-8-16.5-43 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 43. The distribution of  
22 wireless emergency enhanced 911 funds by the ~~board auditor of state~~  
23 for cost recovery by PSAPs under section 39 of this chapter must be  
24 deposited by the county treasurer in a separate fund set aside for the  
25 purposes allowed by section 41 of this chapter. The fund must be  
26 known as the \_\_\_\_\_ (insert name of county) wireless emergency  
27 telephone system fund. The county treasurer may invest money in the  
28 fund in the same manner that other money of the county may be  
29 invested, but income earned from the investment must be deposited in  
30 the fund set aside under this section.

31 SECTION 18. IC 36-8-16.5-45 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 45. (a) **As used in this**  
33 **section, "board" refers to the wireless enhanced 911 advisory**  
34 **board established by section 18 of this chapter (before its repeal on**  
35 **July 1, 2010).**

36 ~~(a)~~ (b) All proprietary information submitted to the board, ~~or~~ the  
37 treasurer of state, **the auditor of state, or the department of state**  
38 **revenue** is confidential. Notwithstanding any other law, proprietary  
39 information submitted under this chapter is not subject to subpoena,  
40 and proprietary information submitted under this chapter may not be  
41 released to a person other than to the submitting CMRS provider  
42 without the permission of the submitting CMRS provider.

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1           **(b) (c)** General information collected by the board, ~~or~~ the treasurer  
2 of state, **the auditor of state, or the department of state revenue** may  
3 be released or published only in aggregate amounts that do not identify  
4 or allow identification of numbers of subscribers or revenues  
5 attributable to an individual CMRS provider.

6           SECTION 19. IC 36-8-16.5-46 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 46. **(a) As used in this**  
8 **section, "board" refers to the wireless enhanced 911 advisory**  
9 **board established by section 18 of this chapter (before its repeal on**  
10 **July 1, 2010).**

11           **(b)** Notwithstanding any other law, the board, **the department,** a  
12 PSAP, political subdivision, CMRS provider, local exchange company,  
13 or an employee, director, officer, or agent of a PSAP, political  
14 subdivision, CMRS provider, or local exchange company, or a member  
15 of the board or the board chair, or an employee, an agent, or a  
16 representative of the board chair **or of the department** is not liable for  
17 damages in a civil action or subject to criminal prosecution resulting  
18 from death, injury, or loss to persons or property incurred by any  
19 person in connection with establishing, developing, implementing,  
20 maintaining, operating, and providing enhanced wireless 911 service  
21 in compliance with the requirements established by the FCC order and  
22 rules adopted under the FCC order, except in the case of willful or  
23 wanton misconduct.

24           SECTION 20. IC 36-8-16.6 IS ADDED TO THE INDIANA CODE  
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2010]:

27           **Chapter 16.6. Enhanced Prepaid Wireless Telecommunications**  
28 **Service Charge**

29           **Sec. 1. As used in this chapter, "consumer" means a person that**  
30 **purchases prepaid wireless telecommunications service from a**  
31 **seller. The term includes a prepaid subscriber (as defined in**  
32 **IC 36-8-16.5-14.5).**

33           **Sec. 2. As used in this chapter, "department" refers to the**  
34 **department of state revenue.**

35           **Sec. 3. As used in this chapter, "enhanced prepaid wireless**  
36 **charge" means the charge that a seller is required to collect from**  
37 **a consumer under section 11 of this chapter.**

38           **Sec. 4. As used in this chapter, "fund" refers to the wireless**  
39 **emergency telephone system fund established by**  
40 **IC 36-8-16.5-21(a).**

41           **Sec. 5. As used in this chapter, "prepaid wireless**  
42 **telecommunications service" means a prepaid wireless calling**

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1 service (as defined in IC 6-2.5-1-22.4) that allows a user of the  
 2 service to reach emergency services by dialing the digits 911.  
 3 Sec. 6. As used in this chapter, "provider" means a person or  
 4 entity that offers prepaid wireless telecommunications service.  
 5 Sec. 7. As used in this chapter, "retail transaction" means the  
 6 purchase of prepaid wireless telecommunications service from a  
 7 seller for any purpose other than resale.  
 8 Sec. 8. As used in this chapter, "seller" means a person that sells  
 9 prepaid wireless telecommunications service to another person.  
 10 Sec. 9. As used in this chapter, "wireless telecommunications  
 11 service" means commercial mobile radio service (as defined in 47  
 12 CFR 20.3).  
 13 Sec. 10. (a) A surcharge known as the enhanced prepaid wireless  
 14 charge is imposed on each retail transaction that occurs after June  
 15 30, 2010.  
 16 (b) The amount of the enhanced prepaid wireless charge is  
 17 twenty-five cents (\$0.25) per retail transaction.  
 18 Sec. 11. (a) A seller shall collect the enhanced prepaid wireless  
 19 charge from the consumer with respect to each retail transaction.  
 20 (b) The seller shall disclose to the consumer the amount of the  
 21 enhanced prepaid wireless charge. The seller may separately state  
 22 the amount of the enhanced prepaid wireless charge on an invoice,  
 23 a receipt, or a similar document that the seller provides to the  
 24 consumer in connection with the retail transaction.  
 25 (c) A seller shall remit enhanced prepaid wireless charges to the  
 26 department at the time and in the manner prescribed by the  
 27 department.  
 28 Sec. 12. The enhanced prepaid wireless charge is the liability of  
 29 the consumer and not of the seller or a provider. However, a seller  
 30 is liable for remitting to the department all enhanced prepaid  
 31 wireless charges that the seller collects from consumers under  
 32 section 11 of this chapter, including any charges that the seller is  
 33 deemed to collect where the amount of the charge has not been  
 34 separately stated on an invoice, receipt, or other similar document  
 35 provided to the consumer by the seller.  
 36 Sec. 13. The amount of the enhanced prepaid wireless charge  
 37 that is collected by a seller from a consumer, whether or not  
 38 separately stated on an invoice, receipt, or other similar document  
 39 provided to the consumer by the seller, shall not be included in the  
 40 base for determining a tax, fee, surcharge, or other charge that is  
 41 imposed by the state, a political subdivision, or any other  
 42 governmental agency.

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1           **Sec. 14. A seller is entitled to deduct and retain from the**  
2 **enhanced prepaid wireless charges the seller is otherwise required**  
3 **to remit to the department under section 11(c) of this chapter**  
4 **thirty-five hundredths of a cent (\$0.0035).**

5           **Sec. 15. A seller is subject to the same audit and appeal**  
6 **procedures under IC 6-8.1 with respect to the collection and**  
7 **remittance of enhanced prepaid wireless charges as with collection**  
8 **and remittance of the state gross retail tax under IC 6-2.5.**

9           **Sec. 16. The department shall establish procedures by which a**  
10 **seller may document that a sale of prepaid wireless**  
11 **telecommunications service is not a retail transaction.**

12           **Sec. 17. The department shall deposit all remitted enhanced**  
13 **prepaid wireless charges in the fund.**

14           **Sec. 18. A seller of prepaid wireless telecommunications service**  
15 **is not liable for damages to a person resulting from or incurred in**  
16 **connection with the following:**

17               **(1) Providing or failing to provide 911 or wireless 911**  
18 **services.**

19               **(2) Identifying or failing to identify the telephone number,**  
20 **address, location, or name associated with a person or device**  
21 **that accesses or attempts to access 911 or wireless 911 service.**

22               **(3) Providing lawful assistance to an investigative or law**  
23 **enforcement officer of the United States, a state, or a political**  
24 **subdivision of a state in connection with a lawful investigation**  
25 **or other law enforcement activity by the law enforcement**  
26 **officer.**

27           **Sec. 19. (a) An additional fee relating to the provision of wireless**  
28 **911 service with respect to prepaid wireless telecommunications**  
29 **service may not be levied by a state agency or unit of local**  
30 **government.**

31               **(b) The enhanced prepaid wireless charge is not considered an**  
32 **additional charge relating to the provision of wireless 911 service**  
33 **for purposes of IC 36-8-16.5-29.**

34           **SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE**  
35 **JULY 1, 2010]: IC 36-8-16.5-1; IC 36-8-16.5-4; IC 36-8-16.5-10;**  
36 **IC 36-8-16.5-18; IC 36-8-16.5-19; IC 36-8-16.5-20; IC 36-8-16.5-26;**  
37 **IC 36-8-16.5-27; IC 36-8-16.5-37; IC 36-8-16.5-38; IC 36-8-16.5-42.**

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

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