

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 345**

Citations Affected: IC 4-23-24.2-5; IC 5-26-1-5; IC 6-3.5; IC 6-8.1-15-13; IC 24-5-22-10; IC 34-30-2-156; IC 35-45-5-4.7; IC 35-51-36-1; IC 36-7-4-405; IC 36-8.

Synopsis: Statewide 911 system. Proposed conference committee report for ESB 345. Requires the Indiana advisory commission on intergovernmental relations to: (1) study the appropriate roles and responsibilities of the state and various political subdivisions in providing 911 and enhanced 911 services in Indiana; and (2) report its findings and recommendations to the legislative council and the budget committee not later than November 1, 2012. Amends the statute concerning deceptive commercial electronic mail to provide that a communications service provider (rather than a telephone company or a commercial mobile radio service (CMRS) provider, as provided under current law) is not subject to a civil lawsuit for a violation of the statute. Repeals the statutes concerning: (1) the emergency telephone system fee (assessed by counties or municipalities for enhanced 911 service for users of wireline telephone service); (2) enhanced wireless emergency telephone service (and the accompanying fee assessed statewide on users of wireless service to provide for enhanced 911 service); and (3) emergency telephone notification systems. Requires the wireless enhanced 911 advisory board to increase the amount of the prepaid wireless charge so that the amount of the charge imposed after June 30, 2012, equals \$0.50. Repeals the provision that provides for the expiration and sunset on July 1, 2013 (if certain conditions are met), of the statute establishing the enhanced prepaid wireless charge. Establishes a statewide 911 system (which does not include a wireline enhanced emergency telephone system funded at the county level before the bill's repeal of the statute governing the wireline enhanced emergency 911 fee on July 1, 2012). Establishes the 13 member statewide 911 board (board) to administer the new system. Provides that the treasurer of state serves as the chair of the board. Provides that the board may do the following in addition to other enumerated powers: (1) Administer statewide 911 grants in accordance with state and federal guidelines. (2) Obtain from each PSAP operating statistics and other performance measurements. With respect to the purchase of communications service or equipment by the board, provides that: (1) a contract for such a purchase must be awarded through an invitation for bids or a request for proposals; and (2) the board must enter into a cooperative agreement with the Indiana department of administration for the department to administer such a purchase using the department's purchasing agents. Provides that the board shall be considered a state agency for purposes of the

statute governing the Indiana transparency Internet web site. Establishes the statewide 911 fund (fund). Provides that the fund is considered a trust fund and that no transfers may be made from the fund by the state board of finance or the budget agency. Appropriates money in the fund. Provides that the board shall administer the fund. Provides that the treasurer of state may invest money in the fund. Requires the state board of accounts to audit the fund annually. Requires the board to impose a monthly statewide 911 fee (fee) on each standard user of communications service in Indiana. Provides that the amount of the initial fee is \$0.90. Provides that the following users of communications service are exempt from the fee: (1) The federal government or a federal agency. (2) The state or a state agency or instrumentality. (3) A political subdivision or an agency of a political subdivision. (4) A user that accesses communications service solely through a wireless data only service plan. Requires communications service providers to collect the fee as part of the monthly billing process. Requires the board to deposit the fees collected into the fund. Provides that the fee may not be raised or lowered more than one time in a calendar year. Provides that the fee: (1) may not be raised or lowered more than \$0.10 without legislative approval; and (2) may not be raised by \$0.10 or less without review by the budget committee. Prohibits a state agency or a local governmental unit from imposing any additional fee relating to the provision of 911 service. Provides that the board shall require a provider to report to the board, on at least an annual basis, the amount of fees collected from all of the provider's standard customers and remitted to the board. Allows the board to retain in each state fiscal year the lesser of: (A) 10% of the statewide 911 fees deposited in the fund in the previous state fiscal year; or (B) the amount of fees deposited in the fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained; to recover the board's administrative expenses and to develop, operate, and maintain a statewide 911 system. Specifies how the board must distribute money from the fund to counties. Provides that in determining a distribution from the fund for a county for any state fiscal year beginning after June 30, 2012, the board shall ensure that the distribution is at least equal to the average annual amount distributed to the county in wireless 911 fees and to all PSAPs in the county in wireline 911 fees during the three state fiscal years ending: (1) June 30, 2009; (2) June 30, 2010; and (3) June 30, 2011; increased by a percentage that does not exceed the percent of increase in the Consumer Price Index during the preceding twelve months. Provides that if any statewide 911 fees remain in the fund after these ensured distributions, the board shall distribute the fees as follows: (1) 90% of the fees shall be distributed to the counties based upon each county's percentage of the state's population. (2) 10% of the fees shall be distributed equally among the counties. Specifies the permissible uses of funds distributed to a PSAP. Requires each PSAP to annually report to the board all call data and statistics specified by the board. Provides that if the board verifies that an expenditure by a PSAP does not comply with requirements of the statute, the board shall ensure that the fund is reimbursed in the dollar amount of the noncomplying expenditure from any source of funding available to the PSAP or to a unit in which the PSAP is located. Requires a communications service provider to provide to a PSAP the necessary user data to enable the PSAP to implement and operate a 911 system. Provides that proprietary information submitted to the board is confidential. Allows a county to establish an emergency notification system with the approval of the board. Retains those provisions from the repealed statute concerning enhanced wireless emergency telephone service that provide that after December 31, 2014, a county may not contain more than two PSAPs. Provides that after December 31, 2014, if a county contains more than two PSAPs, the county may not receive a distribution from the fund until the county contains no more than the authorized number of PSAPs. Requires the state board of accounts and the board to submit certain reports concerning the fund and the use of statewide 911 fees by PSAPs to the budget committee for the two calendar years ending: (1) December 31, 2013; and (2) December 31, 2014. Requires the budget committee to review the statewide 911 system for the same two calendar years. Requires the budget committee to submit to the legislative council, not later than June 1, 2015, a report that includes a recommendation as to whether the statewide 911 fee should continue to be assessed and collected after June 30, 2015. Provides that if the budget committee

does not recommend that the statewide 911 fee should continue to be assessed and collected after June 30, 2015, the statewide 911 fee expires July 1, 2015, and may not be collected or assessed after June 30, 2015. Specifies that funds that remain on June 30, 2012, in the wireless emergency telephone system fund shall be transferred on July 1, 2012, to the statewide 911 fund. Provides that funds that remain on June 30, 2012, in: (1) a county wireless emergency telephone system fund; or (2) a county wireline emergency telephone system fund; shall be transferred on July 1, 2012, by the county treasurer to the new county 911 fund required to be set aside by the county treasurer under the act. Makes conforming amendments. **(This conference committee report replaces the language in ESB 345 (as printed February 24, 2012), with the language in EHB 1087 (as printed February 24, 2012) and makes the following changes to EHB 1087 (as printed February 24, 2012): (1) Requires the Indiana advisory commission on intergovernmental relations to: (A) study the appropriate roles and responsibilities of the state and various political subdivisions in providing 911 and enhanced 911 services in Indiana; and (B) report its findings and recommendations to the legislative council and the budget committee not later than November 1, 2012. (2) Amends the statute concerning deceptive commercial electronic mail to provide that a communications service provider (rather than a telephone company or a CMRS provider, as provided under current law) is not subject to a civil lawsuit for a violation of the statute. (3) Removes provisions that provide for: (A) the expiration on July 1, 2016, of provisions that establish a public safety communications system and computer facilities district in Marion County and allow certain other counties to establish a public safety communications systems district; and (B) transitional provisions to ensure that all obligations incurred by a district before July 1, 2016, are satisfied according to their terms. (4) For purposes of the new statute concerning statewide 911 services: (A) amends the definitions of: (i) "communications service"; (ii) "place of primary use"; (iii) "proprietary information"; and (iv) "standard user"; and (B) adds the definition of "exchange access facility" set forth in the statute governing the wireline emergency telephone system fee (before the bill's repeal of that statute on July 1, 2012). (5) Specifies that the CMRS provider represented on the board must be a facilities based CMRS provider. (6) Removes a provision that provides for a governor appointed board member representing a firefighting or fire prevention services agency. (7) Provides that the state fire marshal is a board member. (8) Removes provisions that: (A) require each board member appointed by the governor to name a designee to fill the member's position on the board or act on the member's behalf at a board meeting; and (B) allow board members to vote by proxy. (9) Specifies that a meeting of the board is subject to the open door law. (10) With respect to the purchase of communications service or equipment by the board, provides that: (A) a contract for such a purchase must be awarded through an invitation for bids or a request for proposals; and (B) the board must enter into a cooperative agreement with the Indiana department of administration for the department to administer such a purchase using the department's purchasing agents. (11) Provides that the board shall be considered a state agency for purposes of the statute governing the Indiana transparency Internet web site. (12) Provides that the board shall appoint an executive director of the board and determine the executive director's salary. (EHB 1087 provides that the treasurer of state shall appoint and determine the salary of the executive director.) (13) Removes a requirement that the board's executive director have at least three years executive experience with a 911 system. (14) Provides that the amount of the initial statewide 911 fee is \$0.90 (instead of \$1.00, as provided in EHB 1087). (15) Provides that a communications service user that accesses communications service solely through a wireless data only service plan is exempt from the fee. (EHB 1087 provides an exemption for only: (A) the federal government or a federal agency; (B) the state or a state agency or instrumentality; and (C) a political subdivision or an agency of a political subdivision.) (16) Provides that the fee may not be raised by \$0.10 or less without review by the budget committee. (17) Provides that the board shall require a provider to report to the board, on at least an annual basis, the amount of fees collected from all of the provider's standard customers and remitted to the board. (18) Allows the board to retain in each state fiscal**

year the lesser of: (A) 10% of the statewide 911 fees deposited in the fund in the previous state fiscal year; or (B) the amount of fees deposited in the fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained; to recover the board's administrative expenses and to develop, operate, and maintain a statewide 911 system. (EHB 1087 allows the board to use 10% of the fees deposited in the fund for such purposes.) (19) Provides that if any statewide 911 fees remain in the fund after certain ensured distributions to counties, the board shall distribute the fees as follows: (1) 90% of the fees shall be distributed to the counties based upon each county's percentage of the state's population. (2) 10% of the fees shall be distributed equally among the counties. (20) With respect to the provision allowing a PSAP to use a distribution of statewide 911 fees from a county for personnel expenses, specifies that such use may only be to the extent reasonable and necessary for the provision and maintenance of: (A) the statewide 911 system; or (B) a local wireline enhanced emergency telephone system. (21) Removes provisions allowing a PSAP to use statewide 911 fees for: (A) consumer education concerning 911 service; and (B) other expenses approved by the board. (22) With respect to the provision allowing a PSAP to use a distribution of statewide 911 fees from a county for mobile radio equipment used by first responders, specifies that such expenditures must be for radio equipment other than that purchased as a result of the Federal Communications Commission's narrow banding requirements. (23) Requires board approval for a county to establish an emergency notification system. (24) Removes provisions that make it: (A) a Class D felony to place repeated nonemergency 911 calls if the calls result in injury or death due to a delayed response to an emergency 911 call; and (B) a Class D felony to make a false request for assistance or services to a PSAP by placing a 911 call (or a Class C felony if an emergency services provider suffers serious bodily injury in responding to the 911 call). (25) Requires the state board of accounts and the board to submit certain reports concerning the fund and the use of statewide 911 fees by PSAPs to the budget committee for the two calendar years ending: (A) December 31, 2013; and (B) December 31, 2014. (26) Requires the budget committee to review the statewide 911 system for the same two calendar years. (27) Requires the budget committee to submit to the legislative council, not later than June 1, 2015, a report that includes a recommendation as to whether the statewide 911 fee should continue to be assessed and collected after June 30, 2015. (28) Provides that if the budget committee does not recommend that the statewide 911 fee should continue to be assessed and collected after June 30, 2015, the statewide 911 fee expires July 1, 2015, and may not be collected or assessed after June 30, 2015. (29) Makes technical changes.)

Effective: Upon passage; July 1, 2012.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 345 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-23-24.2-5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. **(a)** The commission
- 4 shall do the following:
 - 5 (1) Enhance coordination and cooperation between state and local
 - 6 governments.
 - 7 (2) Review the effect of any federal or state legislation or any
 - 8 court decisions on local governmental entities.
 - 9 (3) Act as a forum for consultation among state and local
 - 10 government officials.
 - 11 (4) Conduct research on intergovernmental issues.
 - 12 (5) Review studies of intergovernmental issues by universities,
 - 13 research and consulting organizations, and entities.
 - 14 (6) Issue reports on the commission's activities.
- 15 **(b) In addition to the duties set forth in subsection (a), the**
- 16 **commission shall study the appropriate roles and responsibilities**
- 17 **of the state, counties, municipalities, townships, and other political**
- 18 **subdivisions in providing 911 and enhanced 911 services in**
- 19 **Indiana. In conducting the study required by this subsection, the**
- 20 **commission may consult with, or request necessary information or**
- 21 **testimony from, local officials, public safety agencies, PSAPs (as**
- 22 **defined in IC 36-8-16.7-20), the statewide 911 board established by**

1 **IC 36-8-16.7-24, providers (as defined in IC 36-8-16.7-19), and any**
 2 **other appropriate witnesses or experts. Not later than November**
 3 **1, 2012, the commission shall submit to the legislative council and**
 4 **to the budget committee a report of the commission's findings and**
 5 **recommendations as a result of the study conducted under this**
 6 **subsection. The report to the legislative council and the budget**
 7 **committee under this subsection must be in an electronic format**
 8 **under IC 5-14-6.**

9 SECTION 2. IC 5-26-1-5 IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2012]: Sec. 5. As used in this article, "system"
 11 refers to the Indiana statewide wireless public safety voice and data
 12 communications system. The term does not include ~~the~~ **an** enhanced
 13 emergency telephone system under IC 36-8-16-2 **(before its repeal on**
 14 **July 1, 2012) or the statewide 911 system under IC 36-8-16.7.**

15 SECTION 3. IC 6-3.5-1.1-25, AS AMENDED BY P.L.172-2011,
 16 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2012]: Sec. 25. (a) As used in this section, "public safety"
 18 refers to the following:

- 19 (1) A police and law enforcement system to preserve public peace
 20 and order.
- 21 (2) A firefighting and fire prevention system.
- 22 (3) Emergency ambulance services (as defined in
 23 IC 16-18-2-107).
- 24 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 25 (5) Emergency action (as defined in IC 13-11-2-65).
- 26 (6) A probation department of a court.
- 27 (7) Confinement, supervision, services under a community
 28 corrections program (as defined in IC 35-38-2.6-2), or other
 29 correctional services for a person who has been:
 - 30 (A) diverted before a final hearing or trial under an agreement
 31 that is between the county prosecuting attorney and the person
 32 or the person's custodian, guardian, or parent and that provides
 33 for confinement, supervision, community corrections services,
 34 or other correctional services instead of a final action
 35 described in clause (B) or (C);
 - 36 (B) convicted of a crime; or
 - 37 (C) adjudicated as a delinquent child or a child in need of
 38 services.
- 39 (8) A juvenile detention facility under IC 31-31-8.
- 40 (9) A juvenile detention center under IC 31-31-9.
- 41 (10) A county jail.
- 42 (11) A communications system (as defined in IC 36-8-15-3), ~~or~~ an
 43 enhanced emergency telephone system (as defined in
 44 IC 36-8-16-2 **(before its repeal on July 1, 2012)), or the**
 45 **statewide 911 system (as defined in IC 36-8-16.7-22).**
- 46 (12) Medical and health expenses for jail inmates and other
 47 confined persons.
- 48 (13) Pension payments for any of the following:
 - 49 (A) A member of the fire department (as defined in
 50 IC 36-8-1-8) or any other employee of a fire department.
 - 51 (B) A member of the police department (as defined in

1 IC 36-8-1-9), a police chief hired under a waiver under
 2 IC 36-8-4-6.5, or any other employee hired by a police
 3 department.

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

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

8 (b) If a county council has imposed a tax rate of at least twenty-five
 9 hundredths of one percent (0.25%) under section 24 of this chapter, a
 10 tax rate of at least twenty-five hundredths of one percent (0.25%) under
 11 section 26 of this chapter, or a total combined tax rate of at least
 12 twenty-five hundredths of one percent (0.25%) under sections 24 and
 13 26 of this chapter, the county council may also adopt an ordinance to
 14 impose an additional tax rate under this section to provide funding for
 15 public safety.

16 (c) A tax rate under this section may not exceed twenty-five
 17 hundredths of one percent (0.25%).

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

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

25 (f) Except as provided in subsection (k) or (l), the county auditor
 26 shall distribute the portion of the certified distribution that is
 27 attributable to a tax rate under this section to the county and to each
 28 municipality in the county that is carrying out or providing at least one
 29 (1) of the public safety purposes described in subsection (a). The
 30 amount that shall be distributed to the county or municipality is equal
 31 to the result of:

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

34 (2) a fraction equal to:

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

38 (B) the sum of the attributed allocation amounts of the county
 39 and each municipality in the county that is entitled to a
 40 distribution under this section for the calendar year.

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

48 (g) The department of local government finance may not require a
 49 county or municipality receiving tax revenue under this section to
 50 reduce the county's or municipality's property tax levy for a particular

1 year on account of the county's or municipality's receipt of the tax
2 revenue.

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

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

9 (2) the maximum permissible property tax levy under
10 IC 6-1.1-18.5-3; or

11 (3) the credit under IC 6-1.1-20.6.

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

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

18 (k) Two (2) or more political subdivisions that are entitled to receive
19 a distribution under this section may adopt resolutions providing that
20 some part or all of those distributions shall instead be paid to one (1)
21 political subdivision in the county to carry out specific public safety
22 purposes specified in the resolutions.

23 (l) A fire department, volunteer fire department, or emergency
24 medical services provider that:

25 (1) provides fire protection or emergency medical services within
26 the county; and

27 (2) is operated by or serves a political subdivision that is not
28 otherwise entitled to receive a distribution of tax revenue under
29 this section;

30 may before July 1 of a year apply to the county council for a
31 distribution of tax revenue under this section during the following
32 calendar year. The county council shall review an application
33 submitted under this subsection and may before September 1 of a year
34 adopt a resolution requiring that one (1) or more of the applicants shall
35 receive a specified amount of the tax revenue to be distributed under
36 this section during the following calendar year. A resolution approved
37 under this subsection providing for a distribution to one (1) or more fire
38 departments, volunteer fire departments, or emergency medical
39 services providers applies only to distributions in the following
40 calendar year. Any amount of tax revenue distributed under this
41 subsection to a fire department, volunteer fire department, or
42 emergency medical services provider shall be distributed before the
43 remainder of the tax revenue is distributed under subsection (f).

44 SECTION 4. IC 6-3.5-6-31, AS AMENDED BY P.L.172-2011,
45 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
46 JULY 1, 2012]: Sec. 31. (a) As used in this section, "public safety"
47 refers to the following:

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

50 (2) A firefighting and fire prevention system.

- 1 (3) Emergency ambulance services (as defined in
2 IC 16-18-2-107).
- 3 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 4 (5) Emergency action (as defined in IC 13-11-2-65).
- 5 (6) A probation department of a court.
- 6 (7) Confinement, supervision, services under a community
7 corrections program (as defined in IC 35-38-2.6-2), or other
8 correctional services for a person who has been:
- 9 (A) diverted before a final hearing or trial under an agreement
10 that is between the county prosecuting attorney and the person
11 or the person's custodian, guardian, or parent and that provides
12 for confinement, supervision, community corrections services,
13 or other correctional services instead of a final action
14 described in clause (B) or (C);
- 15 (B) convicted of a crime; or
- 16 (C) adjudicated as a delinquent child or a child in need of
17 services.
- 18 (8) A juvenile detention facility under IC 31-31-8.
- 19 (9) A juvenile detention center under IC 31-31-9.
- 20 (10) A county jail.
- 21 (11) A communications system (as defined in IC 36-8-15-3), ~~or~~ an
22 enhanced emergency telephone system (as defined in
23 IC 36-8-16-2 **(before its repeal on July 1, 2012)**), **or the**
24 **statewide 911 system (as defined in IC 36-8-16.7-22)**.
- 25 (12) Medical and health expenses for jail inmates and other
26 confined persons.
- 27 (13) Pension payments for any of the following:
- 28 (A) A member of the fire department (as defined in
29 IC 36-8-1-8) or any other employee of a fire department.
- 30 (B) A member of the police department (as defined in
31 IC 36-8-1-9), a police chief hired under a waiver under
32 IC 36-8-4-6.5, or any other employee hired by a police
33 department.
- 34 (C) A county sheriff or any other member of the office of the
35 county sheriff.
- 36 (D) Other personnel employed to provide a service described
37 in this section.
- 38 (b) The county income tax council may adopt an ordinance to
39 impose an additional tax rate under this section to provide funding for
40 public safety if:
- 41 (1) the county income tax council has imposed a tax rate under
42 section 30 of this chapter, in the case of a county containing a
43 consolidated city; or
- 44 (2) the county income tax council has imposed a tax rate of at
45 least twenty-five hundredths of one percent (0.25%) under section
46 30 of this chapter, a tax rate of at least twenty-five hundredths of
47 one percent (0.25%) under section 32 of this chapter, or a total
48 combined tax rate of at least twenty-five hundredths of one
49 percent (0.25%) under sections 30 and 32 of this chapter, in the
50 case of a county other than a county containing a consolidated

- 1 city.
- 2 (c) A tax rate under this section may not exceed the following:
- 3 (1) Five-tenths of one percent (0.5%), in the case of a county
- 4 containing a consolidated city.
- 5 (2) Twenty-five hundredths of one percent (0.25%), in the case of
- 6 a county other than a county containing a consolidated city.
- 7 (d) If a county income tax council adopts an ordinance to impose a
- 8 tax rate under this section, the county auditor shall send a certified
- 9 copy of the ordinance to the department and the department of local
- 10 government finance by certified mail.
- 11 (e) A tax rate under this section is in addition to any other tax rates
- 12 imposed under this chapter and does not affect the purposes for which
- 13 other tax revenue under this chapter may be used.
- 14 (f) Except as provided in subsections (l) and (m), the county auditor
- 15 shall distribute the portion of the certified distribution that is
- 16 attributable to a tax rate under this section to the county and to each
- 17 municipality in the county that is carrying out or providing at least one
- 18 (1) of the public safety purposes described in subsection (a). The
- 19 amount that shall be distributed to the county or municipality is equal
- 20 to the result of:
- 21 (1) the portion of the certified distribution that is attributable to a
- 22 tax rate under this section; multiplied by
- 23 (2) a fraction equal to:
- 24 (A) the total property taxes being collected in the county by
- 25 the county or municipality for the calendar year; divided by
- 26 (B) the sum of the total property taxes being collected in the
- 27 county by the county and each municipality in the county that
- 28 is entitled to a distribution under this section for the calendar
- 29 year.
- 30 The county auditor shall make the distributions required by this
- 31 subsection not more than thirty (30) days after receiving the portion of
- 32 the certified distribution that is attributable to a tax rate under this
- 33 section. Tax revenue distributed to a county or municipality under this
- 34 subsection must be deposited into a separate account or fund and may
- 35 be appropriated by the county or municipality only for public safety
- 36 purposes.
- 37 (g) The department of local government finance may not require a
- 38 county or municipality receiving tax revenue under this section to
- 39 reduce the county's or municipality's property tax levy for a particular
- 40 year on account of the county's or municipality's receipt of the tax
- 41 revenue.
- 42 (h) The tax rate under this section and the tax revenue attributable
- 43 to the tax rate under this section shall not be considered for purposes
- 44 of computing:
- 45 (1) the maximum income tax rate that may be imposed in a county
- 46 under section 8 or 9 of this chapter or any other provision of this
- 47 chapter;
- 48 (2) the maximum permissible property tax levy under
- 49 IC 6-1.1-18.5-3; or
- 50 (3) the credit under IC 6-1.1-20.6.

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

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

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

10 (l) Two (2) or more political subdivisions that are entitled to receive
 11 a distribution under this section may adopt resolutions providing that
 12 some part or all of those distributions shall instead be paid to one (1)
 13 political subdivision in the county to carry out specific public safety
 14 purposes specified in the resolutions.

15 (m) A fire department, volunteer fire department, or emergency
 16 medical services provider that:

17 (1) provides fire protection or emergency medical services within
 18 the county; and

19 (2) is operated by or serves a political subdivision that is not
 20 otherwise entitled to receive a distribution of tax revenue under
 21 this section;

22 may before July 1 of a year apply to the county income tax council for
 23 a distribution of tax revenue under this section during the following
 24 calendar year. The county income tax council shall review an
 25 application submitted under this subsection and may before September
 26 1 of a year adopt a resolution requiring that one (1) or more of the
 27 applicants shall receive a specified amount of the tax revenue to be
 28 distributed under this section during the following calendar year. A
 29 resolution approved under this subsection providing for a distribution
 30 to one (1) or more fire departments, volunteer fire departments, or
 31 emergency services providers applies only to distributions in the
 32 following calendar year. Any amount of tax revenue distributed under
 33 this subsection to a fire department, volunteer fire department, or
 34 emergency medical services provider shall be distributed before the
 35 remainder of the tax revenue is distributed under subsection (f).

36 SECTION 5. IC 6-8.1-15-13 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) Except as
 38 provided by section 20 of this chapter, this chapter applies to:

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

41 (2) the ~~monthly emergency wireless enhanced statewide~~ 911 fee
 42 imposed on ~~mobile telecommunications communications~~ service
 43 under ~~IC 36-8-16.5~~; **IC 36-8-16.7**; and

44 (3) any other tax, charge, or fee levied by the state or a taxing
 45 jurisdiction within Indiana as a fixed charge for each customer or
 46 measured by gross amounts charged to customers for mobile
 47 telecommunications service, regardless of whether the tax,
 48 charge, or fee is imposed on the vendor or customer of the service
 49 and regardless of the terminology used to describe the tax, charge,
 50 or fee;

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

3 (b) This chapter does not apply to:

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

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

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

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

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

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

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

23 (A) prepaid telephone calling service; or

24 (B) air-ground radiotelephone service as defined in Section
25 22.99 of Title 47 of the Code of Federal Regulations as in
26 effect June 1, 1999.

27 SECTION 6. IC 24-5-22-10 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) The following
29 have a right of action against a person who initiates or assists the
30 transmission of a commercial electronic mail message that violates this
31 chapter:

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

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

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

37 (1) an interactive computer service; **or**

38 ~~(2) a telephone company; or~~

39 ~~(3) (2) a CMRS communications service provider (as defined by~~
40 ~~IC 36-8-16.5-6); in IC 8-1-2.6-13);~~

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

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

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

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

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

8 (A) to the plaintiff; or

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

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

12 (e) A person outside Indiana who:

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

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

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

19 SECTION 7. IC 34-30-2-156 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 156. ~~IC 36-8-16-18~~
 21 **IC 36-8-16.7-43** (Concerning **the statewide 911 board, a PSAP, a**
 22 **political subdivision, a communications service suppliers or**
 23 **telephone companies provider, a member of the board, or the board**
 24 **chair** for loss, death, or injury related to ~~an enhanced emergency~~
 25 ~~telephone system): **911 service**).~~

26 SECTION 8. IC 35-45-5-4.7, AS AMENDED BY P.L.27-2006,
 27 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 4.7. (a) An interactive computer service that
 29 handles or retransmits a commercial electronic mail message has a
 30 right of action against a person who initiates or assists the transmission
 31 of the commercial electronic mail message that violates this chapter.

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

33 (1) an interactive computer service;

34 (2) a telephone company;

35 (3) a CMRS provider (as defined in ~~IC 36-8-16.5-6~~;
 36 **IC 36-8-16.7-6**);

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

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

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

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

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

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

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

8 (A) to the plaintiff; or

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

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

12 (e) A person outside Indiana who:

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

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

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

19 SECTION 9. IC 35-51-36-1, AS ADDED BY P.L.70-2011,
 20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 1. The following statutes define crimes in
 22 IC 36:

23 IC 36-2-2-13 (Concerning county government).

24 IC 36-2-6-8 (Concerning county government).

25 IC 36-2-6-12 (Concerning county government).

26 IC 36-2-7-18 (Concerning county government).

27 IC 36-2-8-6 (Concerning county government).

28 IC 36-2-9-13 (Concerning county government).

29 IC 36-2-9-14 (Concerning county government).

30 IC 36-2-9.5-7 (Concerning county government).

31 IC 36-2-9.5-9 (Concerning county government).

32 IC 36-2-13-5 (Concerning county government).

33 IC 36-2-14-10 (Concerning county government).

34 IC 36-2-14-17 (Concerning county government).

35 IC 36-2-14-21 (Concerning county government).

36 IC 36-4-8-13 (Concerning government of cities and towns).

37 IC 36-7-12-27.5 (Concerning planning and development).

38 IC 36-7-14-40 (Concerning planning and development).

39 IC 36-7-15.1-27 (Concerning planning and development).

40 IC 36-7-30-28 (Concerning planning and development).

41 IC 36-7-30.5-36 (Concerning planning and development).

42 IC 36-8-3.5-23 (Concerning public safety).

43 IC 36-8-10-9 (Concerning public safety).

44 ~~IC 36-8-16-16 (Concerning public safety).~~

45 ~~IC 36-8-16.5-47 (Concerning public safety).~~

46 ~~IC 36-8-16.5-48 (Concerning public safety).~~

47 ~~IC 36-8-16.5-49 (Concerning public safety).~~

48 **IC 36-8-16.7-41 (Concerning public safety).**

49 **IC 36-8-16.7-45 (Concerning public safety).**

50 **IC 36-8-16.7-46 (Concerning public safety).**

51 IC 36-9-14-7 (Concerning transportation and public works).

- 1 IC 36-10-3-39 (Concerning recreation, culture, and community
2 facilities).
- 3 IC 36-10-4-5 (Concerning recreation, culture, and community
4 facilities).
- 5 IC 36-10-4-40 (Concerning recreation, culture, and community
6 facilities).
- 7 SECTION 10. IC 36-7-4-405 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 405. (a) ADVISORY
9 – AREA. Each plan commission shall:
- 10 (1) make recommendations to the legislative body or bodies
11 concerning:
- 12 (A) the adoption of the comprehensive plan and amendments
13 to the comprehensive plan;
- 14 (B) the adoption or text amendment of:
- 15 (i) an initial zoning ordinance;
- 16 (ii) a replacement zoning ordinance; and
- 17 (iii) a subdivision control ordinance;
- 18 (C) the adoption or amendment of a PUD district ordinance (as
19 defined in section 1503 of this chapter); and
- 20 (D) zone map changes; and
- 21 (2) render decisions concerning and approve plats, replats, and
22 amendments to plats of subdivisions under the 700 series of this
23 chapter.
- 24 (b) Each plan commission:
- 25 (1) shall assign street numbers to lots and structures;
- 26 (2) shall renumber lots and structures; and
- 27 (3) if the plan commission does not have the power under an
28 ordinance adopted under subsection (c) to name or rename streets,
29 may recommend the naming and renaming of streets to the
30 executive.
- 31 (c) The executive shall name or rename streets. However, a unit may
32 provide by ordinance that the plan commission rather than the
33 executive shall name or rename streets. Streets shall be named or
34 renamed so that their names are easy to understand and to avoid
35 duplication or conflict with other names. The plan commission may, by
36 rule, prescribe a numbering system for lots and structures.
- 37 (d) This subsection applies to a plan commission having jurisdiction
38 in a county with a population of at least four hundred thousand
39 (400,000). The plan commission shall number structures on highways
40 within the plan commission's jurisdiction to conform with the numbers
41 of structures on streets within cities in the county.
- 42 (e) This subsection applies to unincorporated areas subject to the
43 jurisdiction of no plan commission under this article. The county
44 executive:
- 45 (1) must approve the assignment of street numbers to lots and
46 structures; and
- 47 (2) may number or renumber lots and structures and name or
48 rename streets.
- 49 (f) This subsection applies to areas located within a municipality
50 that are subject to the jurisdiction of no plan commission under this

- 1 article. The executive of the municipality:
- 2 (1) must approve the assignment of street numbers to lots and
- 3 structures; and
- 4 (2) may number or renumber lots and structures and name or
- 5 rename streets.
- 6 (g) An executive acting under subsection (e) or (f) shall name or
- 7 rename streets:
- 8 (1) so that their names are easy to understand; and
- 9 (2) to avoid duplication or conflict with other names.
- 10 (h) If streets are named or renamed or lots and structures are
- 11 numbered or renumbered under this section, the commission or
- 12 executive that makes the naming or numbering decision shall notify:
- 13 (1) the circuit court clerk or board of registration;
- 14 (2) **the statewide 911 board established by IC 36-8-16.7-24 and**
- 15 **the administrator of an the enhanced emergency telephone system**
- 16 **established under IC 36-8-16 (before its repeal on July 1, 2012),**
- 17 **if any;**
- 18 (3) the United States Postal Service; and
- 19 (4) any person or body that the commission or executive considers
- 20 appropriate to receive notice;
- 21 of its action no later than the last day of the month following the month
- 22 in which the action is taken.
- 23 (i) Each plan commission shall make decisions concerning
- 24 development plans and amendments to development plans under the
- 25 1400 series of this chapter, unless the responsibility to render decisions
- 26 concerning development plans has been delegated under section
- 27 1402(c) of this chapter.
- 28 SECTION 11. IC 36-8-16 IS REPEALED [EFFECTIVE JULY 1,
- 29 2012]. (Emergency Telephone System Fee).
- 30 SECTION 12. IC 36-8-16.5 IS REPEALED [EFFECTIVE JULY 1,
- 31 2012]. (Enhanced Wireless Emergency Telephone Service).
- 32 SECTION 13. IC 36-8-16.6-1, AS ADDED BY P.L.113-2010,
- 33 SECTION 151, IS AMENDED TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this chapter, "board"
- 35 refers to the ~~wireless enhanced~~ **statewide** 911 ~~advisory~~ board
- 36 established by ~~IC 36-8-16.5-18~~: **IC 36-8-16.7-24**.
- 37 SECTION 14. IC 36-8-16.6-5, AS ADDED BY P.L.113-2010,
- 38 SECTION 151, IS AMENDED TO READ AS FOLLOWS
- 39 [EFFECTIVE JULY 1, 2012]: Sec. 5. As used in this chapter, "fund"
- 40 refers to the ~~wireless emergency telephone system~~ **statewide 911** fund
- 41 established by ~~IC 36-8-16.5-21(a)~~: **IC 36-8-16.7-29**.
- 42 SECTION 15. IC 36-8-16.6-11, AS ADDED BY P.L.113-2010,
- 43 SECTION 151, IS AMENDED TO READ AS FOLLOWS
- 44 [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) ~~Subject to section 22 of~~
- 45 ~~this chapter~~, The board shall impose an enhanced prepaid wireless
- 46 charge on each retail transaction that occurs after June 30, 2010. The
- 47 amount of the initial charge imposed under this ~~subsection~~ **section** may
- 48 not exceed one-half (1/2) of the monthly wireless emergency enhanced
- 49 911 fee assessed under IC 36-8-16.5-25.5 **(before its repeal on July**
- 50 **1, 2012). The board shall increase the amount of the charge**

1 **imposed under this section so that the amount of the charge**
 2 **imposed after June 30, 2012, under this section equals fifty cents**
 3 **(\$0.50).**

4 (b) Subject to legislative approval, **after the increase described in**
 5 **subsection (a) and after June 30, 2012**, the board may increase the
 6 enhanced prepaid wireless charge to ensure adequate revenue for the
 7 board to fulfill its duties and obligations under this chapter ~~IC 36-8-16;~~
 8 ~~and IC 36-8-16.5.~~ **IC 36-8-16.7.**

9 (c) A consumer that is the federal government or an agency of the
 10 federal government is exempt from the enhanced prepaid wireless
 11 charge imposed under this section.

12 SECTION 16. IC 36-8-16.6-13, AS ADDED BY P.L.113-2010,
 13 SECTION 151, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: Sec. 13. The enhanced prepaid
 15 wireless charge is the liability of the consumer and not of the seller or
 16 a provider. However, a seller is liable to remit to the ~~board~~ **department**
 17 all enhanced prepaid wireless charges that the seller collects from
 18 consumers under section 12 of this chapter, including all charges that
 19 the seller is considered to collect where the amount of the charge has
 20 not been separately stated on an invoice, receipt, or other similar
 21 document provided to the consumer by the seller.

22 SECTION 17. IC 36-8-16.6-18, AS ADDED BY P.L.113-2010,
 23 SECTION 151, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) The department shall deposit
 25 all remitted enhanced prepaid wireless charges in the fund.

26 (b) The board shall administer money deposited in the fund under
 27 this section in the same manner as ~~wireless emergency enhanced it~~
 28 ~~administers statewide~~ 911 fees assessed under ~~IC 36-8-16.5-25.5.~~
 29 **IC 36-8-16.7-32.**

30 SECTION 18. IC 36-8-16.6-20, AS ADDED BY P.L.113-2010,
 31 SECTION 151, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) An additional fee relating to
 33 the provision of ~~wireless~~ 911 service with respect to prepaid wireless
 34 telecommunications service may not be levied by a state agency or
 35 local unit of government.

36 (b) The enhanced prepaid wireless charge imposed by section 12 of
 37 this chapter is not considered an additional charge relating to the
 38 provision of ~~wireless~~ 911 service for purposes of ~~IC 36-8-16.5-29.~~
 39 **IC 36-8-16.7-32(d).**

40 SECTION 19. IC 36-8-16.6-22 IS REPEALED [EFFECTIVE
 41 UPON PASSAGE]. Sec. 22. (a) ~~Not later than January 1, 2011, the~~
 42 ~~department shall determine the total amount of fees collected and~~
 43 ~~remitted under IC 36-8-16.5-30.5 (b)(2) (as effective in the period~~
 44 ~~beginning July 1, 2008, and ending June 30, 2010) for the period~~
 45 ~~beginning July 1, 2008, and ending June 30, 2010. The board shall~~
 46 ~~provide all information necessary for the department to perform its~~
 47 ~~duties under this subsection.~~

48 (b) ~~Not later than January 1, 2013, the department shall determine~~
 49 ~~the total amount of fees collected and remitted under this chapter for~~
 50 ~~the period beginning July 1, 2010, and ending June 30, 2012.~~

1 (c) If the amount determined under subsection (b) is less than the
 2 amount determined under subsection (a) by more than five percent
 3 (5%); this chapter expires and sunsets July 1, 2013.

4 SECTION 20. IC 36-8-16.7 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2012]:

7 **Chapter 16.7. Statewide 911 Services**

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

11 **Sec. 2. As used in this chapter, "automatic location**
 12 **information" means information that is transmitted while**
 13 **enhanced 911 service is provided and that permits emergency**
 14 **service providers to identify the geographic location of the calling**
 15 **party.**

16 **Sec. 3. As used in this chapter, "automatic number**
 17 **identification" has the meaning set forth in 47 CFR 20.3.**

18 **Sec. 4. As used in this chapter, "board" refers to the statewide**
 19 **911 board established by section 24 of this chapter.**

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

22 **Sec. 6. As used in this chapter, "CMRS provider" means a**
 23 **person that offers CMRS to users in Indiana.**

24 **Sec. 7. (a) As used in this chapter, "communications service"**
 25 **means any service that:**

26 (1) uses telephone numbers or IP addresses or their functional
 27 equivalents or successors;

28 (2) allows access to, or a connection or interface with, a 911
 29 system through the activation or enabling of a device,
 30 transmission medium, or technology that is used by a
 31 customer to dial, initialize, or otherwise activate the 911
 32 system, regardless of the particular device, transmission
 33 medium, or technology employed;

34 (3) provides or enables real time or interactive
 35 communications, other than machine to machine
 36 communications; and

37 (4) is available to a prepaid user or a standard user.

38 (b) The term includes the following:

39 (1) Internet protocol enabled services and applications that
 40 are provided through wireline, cable, wireless, or satellite
 41 facilities, or any other facility or platform that is capable of
 42 connecting a 911 communication to a PSAP.

43 (2) A multiline telephone system.

44 (3) CMRS.

45 (4) Interconnected VOIP service and voice over power lines.

46 (5) Integrated telecommunications service (as defined in 47
 47 CFR 400.2).

48 **Sec. 8. (a) As used in this chapter, except as provided in**
 49 **subsection (b), "customer" means:**

50 (1) the person or entity that contracts with a provider for
 51 communications service; or

1 (2) if the end user of communications service is not the
 2 contracting party, the end user of the communications service.
 3 However, subdivision (2) applies only for the purpose of
 4 determining the place of primary use.

5 (b) The term does not include:

- 6 (1) a reseller of communications service; or
- 7 (2) a provider other than the customer's provider that has an
 8 arrangement with the customer's provider to serve the
 9 customer outside the licensed service area of the customer's
 10 provider.

11 Sec. 9. (a) As used in this chapter, "enhanced 911 service"
 12 means a communications service that uses the three (3) digit
 13 number 911 to send:

- 14 (1) automatic number identification or its functional
 15 equivalent or successor; and
- 16 (2) automatic location information or its functional equivalent
 17 or successor;

18 for reporting police, fire, medical, or other emergency situations.

19 (b) The term includes both Phase I and Phase II enhanced 911
 20 services, as described in 47 CFR 20.18.

21 Sec. 10. As used in this chapter, "exchange access facility"
 22 means the access from a particular service user's premises to a
 23 telephone system.

24 (b) The term includes:

- 25 (1) an access line;
- 26 (2) a private branch exchange (PBX) trunk; and
- 27 (3) a centrex line trunk equivalent;

28 that is provided by the service supplier. The term also includes a
 29 mobile telephone system access trunk, whether the trunk is
 30 provided by a telephone company or a radio common carrier. In
 31 the case of a service user receiving interconnected VoIP service, the
 32 term refers to the Internet protocol compatible customer premises
 33 equipment that enables the service user to access the
 34 interconnected VoIP service.

35 (c) The term does not include:

- 36 (1) a service supplier owned and operated telephone pay
 37 station line;
- 38 (2) a wide area telecommunications service (WATS) line;
- 39 (3) a foreign exchange (FX) line; or
- 40 (4) an incoming only line.

41 Sec. 11. As used in this chapter, "executive director" refers to
 42 the executive director of the board.

43 Sec. 12. As used in this chapter, "fund" refers to the statewide
 44 911 fund established by section 29 of this chapter.

45 Sec. 13. As used in this chapter, "interconnected VOIP service"
 46 has the meaning set forth in 47 CFR 9.3.

47 Sec. 14. As used in this chapter, "local exchange carrier" has the
 48 meaning set forth in 47 U.S.C. 153.

49 Sec. 15. As used in this chapter, "multiline telephone system"
 50 means a voice communications service system that includes the
 51 following:

- 1 (1) Common control units.
- 2 (2) Telephone sets.
- 3 (3) Control hardware and software.
- 4 (4) Adjunct systems.

5 The term includes network and premises based systems as
6 classified by FCC Part 68 (47 CFR part 68) Requirements.

7 Sec. 16. As used in this chapter, "place of primary use" means
8 the street address representative of where a customer's use of
9 communications service primarily occurs, which must be:

- 10 (1) the residential street address or the primary business
11 street address of the customer or, in the case of a subscriber
12 of interconnected VOIP service, the subscriber's registered
13 location (as defined in 47 CFR 9.3);
- 14 (2) within the licensed service area of the customer's provider;
15 and
- 16 (3) in the case of:
 - 17 (A) mobile communications service, determined in the
18 manner provided in IC 6-8.1-15; and
 - 19 (B) nonmobile communications service, determined in the
20 manner provided in IC 6-2.5-12.

21 Sec. 17. As used in this chapter, "prepaid user" has the meaning
22 set forth in IC 36-8-16.6-6.

23 Sec. 18. As used in this chapter, "proprietary information"
24 includes the following:

- 25 (1) Customer lists and related information, including
26 information subject to protection under 47 U.S.C. 222.
- 27 (2) Technology descriptions, technical information, or trade
28 secrets (as defined in IC 24-2-3-2).
- 29 (3) Information that:
 - 30 (A) concerns the actual or developmental costs of 911
31 systems; and
 - 32 (B) is developed, produced, or received internally by a
33 provider or by a provider's employees, directors, officers,
34 or agents.

35 Sec. 19. (a) As used in this chapter, "provider" means a person
36 or entity, or an affiliate of a person or an entity, that:

- 37 (1) offers communications service to users in Indiana; and
- 38 (2) provides, or is required by the Federal Communications
39 Commission to provide, a user with direct access to a PSAP
40 through the placement of a 911 communication.

41 (b) The term includes the following:

- 42 (1) Facilities based and nonfacilities based resellers of
43 communications service.
- 44 (2) Any other provider of communications service through
45 wireline or wireless means, regardless of whether the provider
46 is subject to regulation by the Indiana utility regulatory
47 commission.

48 Sec. 20. As used in this chapter, "PSAP" refers to a public safety
49 answering point:

- 50 (1) that operates on a twenty-four (24) hour basis; and
- 51 (2) whose primary function is to receive incoming requests for

1 emergency assistance and relay those requests to an
2 appropriate responding public safety agency.

3 **Sec. 21.** As used in this chapter, "standard user" or "user"
4 refers to:

5 (1) a communications service user who pays retrospectively
6 for the service and has an Indiana billing address for the
7 service; and

8 (2) in the case of a nonmobile communications service user, an
9 exchange access facility used in Indiana.

10 **Sec. 22. (a)** As used in this chapter, "statewide 911 system"
11 means a communications system that uses the three (3) digit
12 number 911 to send:

13 (1) automatic number identification or its functional
14 equivalent or successor; and

15 (2) automatic location information or its functional equivalent
16 or successor;

17 for reporting police, fire, medical, or other emergency situations.

18 (b) The term includes the following:

19 (1) A wireless 911 emergency telephone system funded under
20 IC 36-8-16.5 (before its repeal on July 1, 2012).

21 (2) An emergency notification system.

22 (c) The term does not include a wireline enhanced emergency
23 telephone system funded under IC 36-8-16 (before its repeal on
24 July 1, 2012).

25 **Sec. 23.** As used in this chapter, "VOIP provider" means a
26 provider that offers interconnected VOIP service to users in
27 Indiana.

28 **Sec. 24. (a)** The statewide 911 board is established to develop,
29 implement, and oversee the statewide 911 system. The board is a
30 body corporate and politic, and though it is separate from the state,
31 the exercise by the board of its powers constitutes an essential
32 governmental function.

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

35 (1) The executive committees of:

36 (A) the Indiana chapter of the National Emergency
37 Number Association (NENA); and

38 (B) the Indiana chapter of the Association of Public Safety
39 Communication Officials International (APCO);

40 shall jointly recommend three (3) individuals, at least one (1)
41 of whom must have budget experience at the local level.

42 (2) The facilities based CMRS providers authorized to provide
43 CMRS in Indiana shall jointly recommend one (1) individual.

44 (3) The Indiana Association of County Commissioners shall
45 recommend one (1) individual who is a county commissioner
46 in Indiana.

47 (4) The Indiana Sheriffs' Association shall recommend one (1)
48 individual who is a county sheriff in Indiana.

49 (5) The Indiana Telecommunications Association shall
50 recommend two (2) individuals as follows:

51 (A) One (1) individual representing a local exchange

- 1 carrier that serves less than fifty thousand (50,000) local
2 exchange access lines in Indiana.
- 3 (B) One (1) individual representing a local exchange
4 carrier that serves at least fifty thousand (50,000) local
5 exchange access lines in Indiana.
- 6 (6) The Indiana Cable Telecommunications Association shall
7 recommend one (1) individual representing a VOIP provider.
- 8 (7) The Indiana Association of Cities and Towns shall
9 recommend one (1) individual representing municipalities.
- 10 (c) The board consists of the following thirteen (13) members:
- 11 (1) The treasurer of state or the treasurer's designee. The
12 treasurer of state or the treasurer's designee is chairperson of
13 the board for a term concurrent with the treasurer of state's
14 term of office. However, the treasurer of state's designee
15 serves at the pleasure of the treasurer of state.
- 16 (2) Three (3) members for a term of three (3) years who are
17 appointed by the governor after considering the
18 recommendations submitted under subsection (b)(1) by the
19 executive committees of NENA and APCO. At least one (1)
20 member appointed under this subdivision must have budget
21 experience at the local level.
- 22 (3) One (1) facilities based CMRS member who is appointed
23 by the governor after considering the recommendation
24 submitted under subsection (b)(2) by the facilities based
25 CMRS providers authorized to provide CMRS in Indiana. A
26 member appointed under this subdivision may not be
27 affiliated with the same business entity as a member
28 appointed under subdivision (6), (7), or (8).
- 29 (4) One (1) county commissioner member appointed by the
30 governor after considering the recommendation submitted
31 under subsection (b)(3) by the Indiana Association of County
32 Commissioners.
- 33 (5) One (1) county sheriff member appointed by the governor
34 after considering the recommendation submitted under
35 subsection (b)(4) by the Indiana Sheriffs' Association.
- 36 (6) One (1) member who represents a local exchange carrier
37 that serves less than fifty thousand (50,000) local exchange
38 access lines in Indiana and who is appointed by the governor
39 after considering the recommendation of the Indiana
40 Telecommunications Association under subsection (b)(5)(A).
41 A member appointed under this subdivision may not be
42 affiliated with the same business entity as a member
43 appointed under subdivision (3), (7), or (8).
- 44 (7) One (1) member who represents a local exchange carrier
45 that serves at least fifty thousand (50,000) local exchange
46 access lines in Indiana and who is appointed by the governor
47 after considering the recommendation of the Indiana
48 Telecommunications Association under subsection (b)(5)(B).
49 A member appointed under this subdivision may not be
50 affiliated with the same business entity as a member
51 appointed under subdivision (3), (6), or (8).

1 (8) One (1) member who represents a VOIP provider and who
 2 is appointed by the governor after considering the
 3 recommendation of the Indiana Cable Telecommunications
 4 Association under subsection (b)(6). A member appointed
 5 under this subdivision may not be affiliated with the same
 6 business entity as a member appointed under subdivision (3),
 7 (6), or (7).

8 (9) One (1) member who represents municipalities and is
 9 appointed by the governor after considering the
 10 recommendation of the Indiana Association of Cities and
 11 Towns submitted under subsection (b)(7).

12 (10) The state fire marshal or the state fire marshal's
 13 designee.

14 (11) The superintendent of the state police department or the
 15 superintendent's designee.

16 (d) This subsection applies to a member appointed by the
 17 governor under subsection (c)(2) through (c)(9). The governor shall
 18 ensure that the terms of the initial members appointed by the
 19 governor are staggered so that the terms of not more than five (5)
 20 members expire in a single calendar year. After the initial
 21 appointments, subsequent appointments shall be for three (3) year
 22 terms. A vacancy on the board shall be filled for the vacating
 23 member's unexpired term in the same manner as the original
 24 appointment, and a member of the board is eligible for
 25 reappointment. In making an appointment under subsection (c)(2)
 26 through (c)(9), the governor shall take into account the various
 27 geographical areas of Indiana, including rural and urban areas. A
 28 member appointed by the governor serves at the pleasure of the
 29 governor.

30 (e) A member must be a resident of Indiana.

31 (f) A member may not vote by proxy.

32 Sec. 25. A majority of the members of the board constitutes a
 33 quorum for the purposes of taking action. A meeting of the board
 34 is subject to IC 5-14-1.5.

35 Sec. 26. (a) Each member of the board who is not a state
 36 employee is not entitled to receive the minimum salary per diem
 37 provided by IC 4-10-11-2.1(b). The member is, however, entitled to
 38 reimbursement for traveling expenses as provided under
 39 IC 4-13-1-4 and other expenses actually incurred in connection
 40 with the member's duties as provided in the state policies and
 41 procedures established by the Indiana department of
 42 administration and approved by the budget agency.

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

49 Sec. 27. (a) The board may do the following to implement this
 50 chapter:

51 (1) Sue and be sued.

- 1 **(2) Adopt and alter an official seal.**
 2 **(3) Adopt and enforce bylaws and rules for:**
 3 **(A) the conduct of board business; and**
 4 **(B) the use of board services and facilities.**
 5 **(4) Subject to subsection (c), acquire, hold, use, and otherwise**
 6 **dispose of the board's income, revenues, funds, and money.**
 7 **(5) Subject to subsections (b) and (c), enter into contracts,**
 8 **including contracts:**
 9 **(A) for professional services;**
 10 **(B) for purchase of supplies or services; and**
 11 **(C) to acquire office space.**
 12 **(6) Subject to subsection (c), hire staff.**
 13 **(7) Adopt rules under IC 4-22-2 to implement this chapter.**
 14 **(8) Develop, maintain, and update a statewide 911 plan.**
 15 **(9) Subject to subsection (c), administer the statewide 911**
 16 **fund established by section 29 of this chapter.**
 17 **(10) Administer and distribute the statewide 911 fee in**
 18 **accordance with section 37 of this chapter.**
 19 **(11) Subject to subsection (c), administer statewide 911 grants**
 20 **in accordance with state and federal guidelines.**
 21 **(12) Obtain from each PSAP operating statistics and other**
 22 **performance measurements, including call statistics by**
 23 **category and emergency medical dispatching (EMD)**
 24 **certifications.**
 25 **(13) Take other necessary or convenient actions to implement**
 26 **this chapter that are not inconsistent with Indiana law.**
 27 **(b) A contract for the purchase of communications service or**
 28 **equipment by the board must be awarded through an invitation for**
 29 **bids or a request for proposals as described in IC 5-22. The board**
 30 **shall enter into a cooperative agreement with the Indiana**
 31 **department of administration for the department to administer the**
 32 **board's purchases under this chapter using the department's**
 33 **purchasing agents.**
 34 **(c) The board shall be considered a state agency for purposes of**
 35 **IC 5-14-3.5. Subject to IC 5-14-3.5-4, the following shall be posted**
 36 **to the Indiana transparency Internet web site in accordance with**
 37 **IC 5-14-3.5-2:**
 38 **(1) Expenditures by the board, including expenditures for**
 39 **contracts, grants, and leases.**
 40 **(2) The balance of the statewide 911 fund established by**
 41 **section 29 of this chapter.**
 42 **(3) A listing of the board's real and personal property that has**
 43 **a value of more than twenty thousand dollars (\$20,000).**
 44 **The board shall cooperate with and provide information to the**
 45 **auditor of state as required by IC 5-14-3.5-8.**
 46 **Sec. 28. (a) The board shall appoint an executive director of the**
 47 **board to do the following:**
 48 **(1) Administer, manage, and direct employees of the board.**
 49 **(2) Approve salaries and allowable expenses for board**
 50 **members, employees, and consultants.**
 51 **(3) Attend board meetings and record all proceedings of the**

1 board. However, the executive director is not considered a
 2 member of the board for any purpose, including voting or
 3 establishing a quorum.

4 (4) Maintain books, documents, and papers filed with the
 5 board, including minutes.

6 (5) Perform other duties as directed by the board.

7 (b) The board shall determine the salary and other
 8 compensation of the executive director.

9 Sec. 29. (a) The statewide 911 fund is established for the
 10 purposes of creating and maintaining a uniform statewide 911
 11 system. The board shall administer the fund. The expenses of
 12 administering the fund must be paid from money in the fund.

13 (b) The fund consists of the following:

14 (1) The statewide 911 fee assessed on users under section 32
 15 of this chapter.

16 (2) Appropriations made by the general assembly.

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

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

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

21 (6) Money from any other source that is deposited in or
 22 transferred to the fund.

23 (c) The treasurer of state may invest money in the fund in the
 24 same manner as other funds of the state may be invested under
 25 IC 5-13.

26 (d) The fund is considered a trust fund for purposes of
 27 IC 4-9.1-1-7. Money in the fund:

28 (1) does not revert at the end of any state fiscal year but
 29 remains available for the purposes of the fund in subsequent
 30 state fiscal years, notwithstanding IC 4-13-2-19 or any other
 31 law; and

32 (2) is not subject to transfer to any other fund or to transfer,
 33 assignment, or reassignment for any other use or purpose by:

34 (A) the state board of finance notwithstanding IC 4-9.1-1-7,
 35 IC 4-13-2-23, or any other law; or

36 (B) the budget agency or any other state agency
 37 notwithstanding IC 4-12-1-12 or any other law.

38 (e) Money in the fund is continuously appropriated for the
 39 purposes of the fund.

40 Sec. 30. (a) The state board of accounts shall audit the fund on
 41 an annual basis to determine whether the fund is being managed
 42 in accordance with this chapter. For each of the two (2) state fiscal
 43 years ending:

44 (A) June 30, 2013; and

45 (B) June 30, 2014;

46 the state board of accounts shall submit, not later than November
 47 1 of each year during which the particular state fiscal year ends, a
 48 report of the audit required by this subsection to the budget
 49 committee for the budget committee's review. A report submitted
 50 under this subsection must be in an electronic format under
 51 IC 5-14-6.

1 **(b) On an annual basis, and in conjunction with the board's**
 2 **review under section 38(d) of this chapter of the state board of**
 3 **accounts' annual audit of PSAPs, the board shall review 911**
 4 **service in Indiana, including the collection, disbursement, and use**
 5 **of the statewide 911 fee assessed under section 32 of this chapter.**

6 **The purpose of the review is to ensure that the statewide 911 fee:**

7 **(1) does not exceed the amount reasonably necessary to**
 8 **provide adequate and efficient 911 service; and**

9 **(2) is used only for the purposes set forth in this chapter.**

10 **(c) For each of the two (2) calendar years ending:**

11 **(A) December 31, 2013; and**

12 **(B) December 31, 2014;**

13 **the board shall submit, not later than March 1 of the year**
 14 **immediately following the particular calendar year, a summary**
 15 **report of the board's findings under the review required by**
 16 **subsection (b) to the budget committee for the budget committee's**
 17 **review. A report submitted under this subsection must be in an**
 18 **electronic format under IC 5-14-6.**

19 **Sec. 31. The board may retain an independent, third party**
 20 **accounting firm or fiscal agent for purposes of processing checks**
 21 **and distributing funds as directed by the board and as allowed by**
 22 **this chapter. The board shall pay for these services as an**
 23 **administrative cost of the board.**

24 **Sec. 32. (a) Except as provided in subsections (c) and (e), and**
 25 **subject to subsection (b) and section 48(e) of this chapter, the**
 26 **board shall assess a monthly statewide 911 fee on each standard**
 27 **user that is a customer having a place of primary use in Indiana at**
 28 **a rate that:**

29 **(1) ensures full recovery of the amount needed for the board**
 30 **to make distributions to county treasurers consistent with this**
 31 **chapter; and**

32 **(2) provides for the proper development, operation, and**
 33 **maintenance of a statewide 911 system.**

34 **The amount of the initial fee assessed under this subsection is**
 35 **ninety cents (\$0.90).**

36 **(b) The board may adjust the statewide 911 fee to ensure**
 37 **adequate revenue for the board to fulfill the board's duties and**
 38 **obligations under this chapter, subject to the following:**

39 **(1) The fee may not be raised or lowered more than one (1)**
 40 **time in a calendar year.**

41 **(2) The fee:**

42 **(A) may not be raised by an amount that is less than or**
 43 **equal to ten cents (\$0.10) without review by the budget**
 44 **committee; and**

45 **(B) may not be raised or lowered by an amount that is**
 46 **more than ten cents (\$0.10) without legislative approval.**

47 **(c) The fee assessed under this section does not apply to a**
 48 **prepaid user in a retail transaction under IC 36-8-16.6.**

49 **(d) An additional fee relating to the provision of 911 service may**
 50 **not be levied by a state agency or local unit of government. An**
 51 **enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is**

1 not considered an additional fee relating to the provision of
2 wireless 911 service for purposes of this section.

3 (e) A user is exempt from the fee if the user is any of the
4 following:

5 (1) The federal government or an agency of the federal
6 government.

7 (2) The state or an agency or instrumentality of the state.

8 (3) A political subdivision (as defined in IC 36-1-2-13) or an
9 agency of a political subdivision.

10 (4) A user that accesses communications service solely
11 through a wireless data only service plan.

12 Sec. 33. (a) As part of the provider's normal monthly billing
13 process, a provider:

14 (1) shall collect the fee from each standard user that is a
15 customer having a place of primary use in Indiana; and

16 (2) may list the fee as a separate line item on each bill.

17 If a provider receives a partial payment for a monthly bill from a
18 standard user, the provider shall apply the payment against the
19 amount the standard user owes to the provider before applying the
20 payment against the fee. A provider may not prorate the monthly
21 911 fee collected from a user.

22 (b) Subject to subsection (c), a provider shall remit statewide
23 911 fees collected under this section to the board at the time and in
24 the manner prescribed by the board. However, the board shall
25 require a provider to report to the board, no less frequently than
26 on an annual basis, the amount of fees collected from all of the
27 provider's customers described in subsection (a)(1) and remitted
28 to the board under this section. The board may require a provider
29 to submit a report required under this subsection at the same time
30 that the provider remits fees to the board under this section. The
31 board shall deposit all remitted statewide 911 fees in the fund.

32 (c) A provider may deduct and retain an amount not to exceed
33 one percent (1%) of statewide 911 fees that the provider collects
34 from users to reimburse the direct costs incurred by the provider
35 in collecting and remitting statewide 911 fees.

36 Sec. 34. The statewide 911 fee is the liability of the user and not
37 of a provider. However, a provider is liable to remit to the board
38 all statewide 911 fees that the provider collects from users.

39 Sec. 35. The amount of a statewide 911 fee that is collected by a
40 provider from a user, whether separately stated on an invoice,
41 receipt, or other document, may not be included in the base for
42 measuring any tax, surcharge, or other charge that is imposed by
43 the state, a political subdivision, or other government agency.

44 Sec. 36. A provider is not required to take legal action to enforce
45 the collection of the 911 fee for which a user is billed. However, the
46 board may initiate a collection action. A court finding for the
47 board in the action may award reasonable costs and attorney fees
48 associated with the collection action.

49 Sec. 37. (a) Subject to subsection (b), the board shall administer
50 the fund in the following manner:

51 (1) In each state fiscal year, the board may retain the lesser

1 of:

2 (A) ten percent (10%) of the statewide 911 fees deposited
3 in the fund in the previous state fiscal year; or

4 (B) the amount of fees deposited in the fund in the previous
5 state fiscal year that would provide for the operating
6 expenses of the statewide 911 system during the state fiscal
7 year for which the fees are retained;

8 to pay the board's expenses in administering this chapter and
9 to develop, operate, and maintain a statewide 911 system. The
10 board may decrease the amount of fees retained by the board
11 under this subdivision.

12 (2) After retaining the amount set forth in subdivision (1), the
13 board shall distribute to the counties, in a manner determined
14 by the board, the remainder of the statewide 911 fees in the
15 fund. However, with respect to any state fiscal year beginning
16 after June 30, 2012, the board shall first ensure a distribution
17 to each county in an amount that is equal to the average
18 annual amount distributed to all PSAPs in the county under
19 IC 36-8-16 (before its repeal on July 1, 2012) and to the
20 county under IC 36-8-16.5 (before its repeal on July 1, 2012)
21 during the three (3) state fiscal years ending:

22 (A) June 30, 2009;

23 (B) June 30, 2010; and

24 (C) June 30, 2011;

25 increased by a percentage that does not exceed the percent of
26 increase in the United States Department of Labor Consumer
27 Price Index during the twelve (12) months preceding the state
28 fiscal year for which the distribution is made.

29 (3) If any statewide 911 fees remain in the fund after the
30 distributions ensured under subdivision (2), the board shall
31 distribute the fees as follows:

32 (A) Ninety percent (90%) of the fees shall be distributed to
33 the counties based upon each county's percentage of the
34 state's population.

35 (B) Ten percent (10%) of the fees shall be distributed
36 equally among the counties.

37 (b) The board may not distribute money in the fund in a manner
38 that impairs the ability of the board to fulfill its management and
39 administrative obligations under this chapter.

40 Sec. 38. (a) A PSAP may use a distribution from a county under
41 this chapter only for the following:

42 (1) The lease, purchase, or maintenance of communications
43 service equipment.

44 (2) Necessary system hardware and software and data base
45 equipment.

46 (3) Personnel expenses, including wages, benefits, training,
47 and continuing education, only to the extent reasonable and
48 necessary for the provision and maintenance of:

49 (A) the statewide 911 system; or

50 (B) a wireline enhanced emergency telephone system
51 funded under IC 36-8-16 (before its repeal on July 1, 2012).

- 1 **(4) Operational costs, including costs associated with:**
 2 **(A) utilities;**
 3 **(B) maintenance;**
 4 **(C) equipment designed to provide backup power or**
 5 **system redundancy, including generators; and**
 6 **(D) call logging equipment.**
 7 **(5) An emergency notification system that is approved by the**
 8 **board under section 40 of this chapter.**
 9 **(6) Connectivity to the Indiana data and communications**
 10 **system (IDACS).**
 11 **(7) Rates associated with communications service providers'**
 12 **enhanced emergency communications system network**
 13 **services.**
 14 **(8) Mobile radio equipment used by first responders, other**
 15 **than radio equipment purchased under subdivision (9) as a**
 16 **result of the narrow banding requirements specified by the**
 17 **Federal Communications Commission.**
 18 **(9) Up to fifty percent (50%) of the costs associated with the**
 19 **narrow banding or replacement of radios or other equipment**
 20 **as a result of the narrow banding requirements specified by**
 21 **the Federal Communications Commission.**
 22 **(b) A PSAP may not use a distribution from a county under this**
 23 **chapter for the following:**
 24 **(1) The construction, purchase, renovation, or furnishing of**
 25 **PSAP buildings.**
 26 **(2) Vehicles.**
 27 **(c) Not later than January 31 of each year, each PSAP shall**
 28 **submit to the board a report of the following:**
 29 **(1) All expenditures made during the immediately preceding**
 30 **calendar year from distributions under this chapter.**
 31 **(2) Call data and statistics for the immediately preceding**
 32 **calendar year, as specified by the board and collected in**
 33 **accordance with any reporting method established or**
 34 **required by the board.**
 35 **(d) Beginning in 2013, the state board of accounts annually shall**
 36 **audit the expenditures of distributions under this chapter made**
 37 **during the immediately preceding calendar year by each PSAP**
 38 **that receives distributions under this chapter. In conducting an**
 39 **audit under this subsection, the state board of accounts shall**
 40 **determine, in conjunction with the board, whether the**
 41 **expenditures made by each PSAP are in compliance with**
 42 **subsections (a) and (b). The board shall review and further audit**
 43 **any ineligible expenditure identified by the state board of accounts**
 44 **under this subsection or through any other report. If the board**
 45 **verifies that the expenditure did not comply with this section, the**
 46 **board shall ensure that the fund is reimbursed in the dollar amount**
 47 **of the noncomplying expenditure from any source of funding, other**
 48 **than a fund described in subsection (f), that is available to the**
 49 **PSAP or to a unit in which the PSAP is located.**
 50 **(e) For each of the two (2) calendar years ending:**
 51 **(A) December 31, 2013; and**

1 **(B) December 31, 2014;**
 2 the state board of accounts shall submit, not later than March 1 of
 3 the year immediately following the particular calendar year, a
 4 summary report of the audits required by subsection (d) for the
 5 particular calendar year to the budget committee for the budget
 6 committee's review. A report submitted under this subsection must
 7 be in an electronic format under IC 5-14-6.

8 (f) A distribution under section 37(a)(2) of this chapter must be
 9 deposited by the treasurer of the county in a separate fund set
 10 aside for the purposes allowed by subsections (a) and (b). The fund
 11 must be known as the _____ (insert name of county) 911 fund.
 12 The county treasurer may invest money in the fund in the same
 13 manner that other money of the county may be invested, but
 14 income earned from the investment must be deposited in the fund
 15 set aside under this subsection.

16 Sec. 39. (a) In cooperation with the board, a provider shall
 17 designate a person to coordinate with and provide all relevant
 18 information to the board to assist the board in carrying out its
 19 duties under this chapter.

20 (b) A provider shall provide the automatic number
 21 identification and any other information, including updates,
 22 required by the board to the county, the municipality, an
 23 authorized agent of a county or municipality, or the board or the
 24 board's authorized agent for purposes of establishing and
 25 maintaining a 911 system data base. The board may use
 26 confidential information received under this subsection solely for
 27 the purpose of providing statewide 911 service.

28 Sec. 40. (a) As used in this section, "emergency notification
 29 system" means an enhanced 911 system capability that provides
 30 communications service users within the territory served by a
 31 PSAP with a warning, delivered through a device or medium by
 32 which users receive communications service from a provider, of an
 33 emergency situation through a computerized warning system that
 34 uses 911 data base information and technology.

35 (b) With approval of the board, a county may establish an
 36 emergency notification system. If the board approves the
 37 establishment of an emergency notification system in a county, a
 38 PSAP in the county may use funds distributed to it under this
 39 chapter to establish and operate an emergency notification system
 40 under this section.

41 (c) A provider shall provide to a PSAP the necessary user data
 42 to enable the PSAP to implement an emergency notification system
 43 under this section. The provision of data under this subsection is
 44 subject to section 41 of this chapter. In providing data under this
 45 subsection, the provider shall provide the following information for
 46 each service user in the PSAP's service territory:

- 47 (1) The service address of the user.
 48 (2) The class of service provided to the user.
 49 (3) A designation of listed, unlisted, or nonpublished with
 50 respect to any telephone number (or other functionally
 51 equivalent identification number) associated with the user's

1 service or account.

2 The provider shall provide this data to the PSAP on a quarterly
3 basis. The provider may charge a reasonable fee to the PSAP for
4 the administrative costs of providing the data.

5 Sec. 41. (a) A provider shall, upon request, provide to a PSAP
6 the necessary user data to enable the PSAP to implement and
7 operate a 911 system. User data provided to a PSAP for the
8 purpose of implementing or updating a 911 system may be used
9 only to identify:

10 (1) a user;

11 (2) a user's place of primary use; or

12 (3) the information described in both subdivisions (1) and (2);

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

18 (b) After May 31, 1988, a contract entered into between a
19 provider and a user who has an unlisted or nonpublished telephone
20 number (or other functionally equivalent identification number)
21 may not include a provision that prohibits the provider from
22 providing the user's telephone number (or other functionally
23 equivalent identification number) to a PSAP for inclusion in a 911
24 system data base. A provider (other than a provider who, before
25 June 1, 1988, has contracted to not divulge a subscriber's unlisted
26 or nonpublished telephone number (or other functionally
27 equivalent identification number)) shall provide a requesting PSAP
28 with the name, telephone number (or other functionally equivalent
29 identification number), and place of primary use for each user of
30 the provider. A PSAP may not release a telephone number (or
31 other functionally equivalent identification number) required to be
32 provided under this subsection to any person except as provided in
33 subsection (a).

34 (c) A provider may amend or terminate a contract with a user
35 if:

36 (1) the contract contains a provision that prohibits the
37 provider from providing the user's telephone number (or
38 other functionally equivalent identification number) to a
39 PSAP for inclusion in a 911 system data base;

40 (2) the exclusion of the telephone number (or other
41 functionally equivalent identification number) from the data
42 base would negate the purpose of this chapter; and

43 (3) the user is notified of the proposed amendment or
44 termination of a contract at least one hundred eighty (180)
45 days before the provider takes action.

46 Sec. 42. (a) All proprietary information submitted to the board
47 or the treasurer of state, or to the budget committee under section
48 48 of this chapter, is confidential. Notwithstanding any other law,
49 proprietary information submitted under this chapter is not
50 subject to subpoena, and proprietary information submitted under
51 this chapter may not be released to a person other than to the

1 submitting provider without the permission of the submitting
2 provider.

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

7 Sec. 43. Notwithstanding any other law:

- 8 (1) the board;
9 (2) a PSAP;
10 (3) a political subdivision;
11 (4) a provider;
12 (5) an employee, director, officer, or agent of a PSAP, a
13 political subdivision, or a provider; or
14 (6) an employee or member of the board, the board chair, the
15 executive director, or an employee, agent, or representative of
16 the board chair;

17 is not liable for damages in a civil action or subject to criminal
18 prosecution resulting from death, injury, or loss to persons or
19 property incurred by any person in connection with establishing,
20 developing, implementing, maintaining, operating, and providing
21 911 service, except in the case of willful or wanton misconduct.

22 Sec. 44. A person may not use 911 service except to make
23 emergency calls that may result in the dispatch of the appropriate
24 response for fire suppression and rescue, emergency medical or
25 ambulance services, hazardous material, disaster or major
26 emergency occurrences, and law enforcement activities.

27 Sec. 45. (a) This section does not apply to a person that connects
28 to a 911 network using automatic crash notification technology
29 subject to an established protocol.

30 (b) A person may not connect to a 911 network an automatic
31 alarm, automatic dialer, or other automated alerting device that:

- 32 (1) causes the number 911 to be automatically dialed; or
33 (2) provides through a prerecorded message information
34 regarding obtaining 911 emergency service.

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

37 Sec. 46. A person who knowingly or intentionally places a 911
38 call:

- 39 (1) for a purpose other than obtaining public safety assistance
40 or emergency services; or
41 (2) to avoid communications service charges or fees;

42 commits a Class A misdemeanor.

43 Sec. 47. (a) For purposes of this section, a PSAP includes a
44 public safety communications system operated and maintained
45 under IC 36-8-15.

46 (b) As used in this section, "PSAP operator" means:

- 47 (1) a political subdivision; or
48 (2) an agency;

49 that operates a PSAP. The term does not include any entity
50 described in subsection (c)(1) through (c)(3).

51 (c) Subject to subsection (d), after December 31, 2014, a county

1 may not contain more than two (2) PSAPs. However, a county may
 2 contain one (1) or more PSAPs in addition to the number of PSAPs
 3 authorized by this section, as long as any additional PSAPs are
 4 operated:

- 5 (1) by a state educational institution;
- 6 (2) by an airport authority established for a county having a
 7 consolidated city; or
- 8 (3) in a county having a consolidated city, by an excluded city
 9 (as defined in IC 36-3-1-7).

10 (d) If, on March 15, 2008, a county does not contain more than
 11 one (1) PSAP, not including any PSAP operated by an entity
 12 described in subsection (c)(1) through (c)(3), an additional PSAP
 13 may not be established and operated in the county on or after
 14 March 15, 2008, unless the additional PSAP is established and
 15 operated by:

- 16 (1) a state educational institution;
- 17 (2) in the case of a county having a consolidated city, an
 18 airport authority established for the county; or
- 19 (3) the municipality having the largest population in the
 20 county or an agency of that municipality.

21 (e) Before January 1, 2015, each PSAP operator in a county that
 22 contains more than the number of PSAPs authorized by subsection
 23 (c) shall enter into an interlocal agreement under IC 36-1-7 with
 24 every other PSAP operator in the county to ensure that the county
 25 does not contain more than the number of PSAPs authorized by
 26 subsection (c) after December 31, 2014.

27 (f) An interlocal agreement required under subsection (e) may
 28 include as parties, in addition to the PSAP operators required to
 29 enter into the interlocal agreement under subsection (e), any of the
 30 following that seek to be served by a county's authorized PSAPs
 31 after December 31, 2014:

- 32 (1) Other counties contiguous to the county.
- 33 (2) Other political subdivisions in a county contiguous to the
 34 county.
- 35 (3) Other PSAP operators in a county contiguous to the
 36 county.

37 (g) An interlocal agreement required under subsection (e) must
 38 provide for the following:

- 39 (1) A plan for the:
 - 40 (A) consolidation;
 - 41 (B) reorganization; or
 - 42 (C) elimination;

43 of one (1) or more of the county's PSAPs, as necessary to
 44 ensure that the county does not contain more than the number
 45 of PSAPs authorized by subsection (c) after December 31,
 46 2014.

47 (2) A plan for funding and staffing the PSAP or PSAPs that
 48 will serve:

- 49 (A) the county; and
- 50 (B) any areas contiguous to the county, if additional parties
 51 described in subsection (f) participate in the interlocal

- 1 agreement;
 2 after December 31, 2014.
- 3 (3) Subject to any applicable state or federal requirements,
 4 protocol to be followed by the county's PSAP or PSAPs in:
 5 (A) receiving incoming 911 calls; and
 6 (B) dispatching appropriate public safety agencies to
 7 respond to the calls;
 8 after December 31, 2014.
- 9 (4) Any other matters that the participating PSAP operators
 10 or parties described in subsection (f), if any, determine are
 11 necessary to ensure that the county does not contain more
 12 than the number of PSAPs authorized by subsection (c) after
 13 December 31, 2014.
- 14 (h) This section may not be construed to require a county to
 15 contain a PSAP.
- 16 (i) After December 31, 2014, if a county contains more than the
 17 number of PSAPs authorized by subsection (c), the county may not
 18 receive a distribution under section 37 of this chapter until the
 19 county complies with subsection (c).
- 20 **Sec. 48. (a)** The budget committee shall review the statewide 911
 21 system governed by this chapter for the two (2) calendar years
 22 ending:
 23 (1) December 31, 2013; and
 24 (2) December 31, 2014.
- 25 (b) In conducting the review required by this section, the budget
 26 committee may examine the following:
 27 (1) Whether the fund is being administered by the board in
 28 accordance with this chapter. In performing a review under
 29 this subdivision, the budget committee may consider the audit
 30 reports submitted to the budget committee by the state board
 31 of accounts under section 30(a) of this chapter.
 32 (2) The collection, disbursement, and use of the statewide 911
 33 fee assessed under section 32 of this chapter. In performing a
 34 review under this subdivision, the budget committee may:
 35 (A) examine whether the statewide 911 fee:
 36 (i) is being assessed in an amount that is reasonably
 37 necessary to provide adequate and efficient 911 service;
 38 and
 39 (ii) is being used only for the purposes set forth in this
 40 chapter; and
 41 (B) consider:
 42 (i) the reports submitted to the budget committee by the
 43 board under section 30(c) of this chapter; and
 44 (ii) the audit reports submitted to the budget committee
 45 by the state board of accounts under section 38(e) of this
 46 chapter.
 47 (3) The report submitted to the budget committee by the
 48 Indiana advisory commission on intergovernmental relations
 49 under IC 4-23-24.2-5(b).
 50 (4) Any other data, reports, or information the budget
 51 committee determines is necessary to review the statewide 911

1 system governed by this chapter.

2 (c) Subject to section 42 of this chapter, the board, the state
3 board of accounts, political subdivisions, providers, and PSAPs
4 shall provide to the budget committee all relevant data, reports,
5 and information requested by the budget committee to assist the
6 budget committee in carrying out its duties under this section.

7 (d) After conducting the review required by this section, the
8 budget committee shall, not later than June 1, 2015, report its
9 findings to the legislative council. The budget committee's findings
10 under this subsection:

11 (1) must include a recommendation as to whether the
12 statewide 911 fee assessed under section 32 of this chapter
13 should continue to be assessed and collected under this
14 chapter after June 30, 2015; and

15 (2) if the budget committee recommends under subdivision (1)
16 that the statewide 911 fee assessed under section 32 of this
17 chapter should continue to be assessed and collected under
18 this chapter after June 30, 2015, may include
19 recommendations for the introduction in the general assembly
20 of any legislation that the budget committee determines is
21 necessary to ensure that the statewide 911 system governed by
22 this chapter is managed in a fair and fiscally prudent manner.

23 A report to the legislative council under this subsection must be in
24 an electronic format under IC 5-14-6.

25 (e) If the budget committee does not recommend in its report
26 under subsection (d) that the statewide 911 fee assessed under
27 section 32 of this chapter should continue to be assessed and
28 collected under this chapter after June 30, 2015, the statewide 911
29 fee assessed under section 32 of this chapter expires July 1, 2015,
30 and may not be assessed or collected after June 30, 2015.

31 SECTION 21. IC 36-8-21 IS REPEALED [EFFECTIVE JULY 1,
32 2012]. (Emergency Telephone Notification System).

33 SECTION 22. [EFFECTIVE UPON PASSAGE] (a) The funds that
34 remain on June 30, 2012, in the wireless emergency telephone
35 system fund established by IC 36-8-16.5-21 (before its repeal by
36 this act on July 1, 2012) shall be transferred on July 1, 2012, to the
37 statewide 911 fund established by IC 36-8-16.7-29, as added by this
38 act.

39 (b) This SECTION expires January 1, 2013.

40 SECTION 23. [EFFECTIVE UPON PASSAGE] (a) The funds that
41 remain on June 30, 2012, in a county's wireless emergency
42 telephone system fund established by IC 36-8-16.5-43 (before its
43 repeal by this act on July 1, 2012) shall be transferred on July 1,
44 2012, by the county treasurer to the county's 911 fund required to
45 be set aside by the county treasurer under IC 36-8-16.7-38(f), as
46 added by this act.

47 (b) This SECTION expires January 1, 2013.

48 SECTION 24. [EFFECTIVE UPON PASSAGE] (a) The funds that
49 remain on June 30, 2012, in an emergency telephone system fund
50 established by a county under IC 36-8-16-13 (before its repeal by
51 this act on July 1, 2012) shall be transferred on July 1, 2012, by the

1 **county treasurer to the county's 911 fund required to be set aside**
2 **by the county treasurer under IC 36-8-16.7-38(f), as added by this**
3 **act.**

4 **(b) This SECTION expires January 1, 2013.**
5 **SECTION 25. An emergency is declared for this act.**
 (Reference is to ESB 345 as printed February 24, 2012.)

Conference Committee Report
on
Engrossed Senate Bill 345

Signed by:

Senator Hershman
Chairperson

Representative Thompson

Senator Tallian

Representative Pelath

Senate Conferees

House Conferees