

SENATE BILL No. 408

DIGEST OF INTRODUCED BILL

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

Synopsis: Statewide 911 system and fees. Establishes the 11 member statewide 911 board (board). Provides that the treasurer of state serves as the chair of the board. Establishes the statewide 911 fund (fund). Appropriates money in the fund. Provides that the board shall administer the fund. Requires the board to impose a statewide 911 fee (fee) on each standard and prepaid user of communications service in Indiana. Deposits fees in the fund. Prohibits a state agency or a political subdivision from imposing any additional fee relating to the provision of 911 service. Specifies the manner in which the board distributes money from the fund to public safety answering points (PSAPs). Specifies the permissible uses for funds distributed to a PSAP. Allows a county to establish an emergency telephone notification system. 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. Provides that after June 30, 2014, a county may not contain more than one PSAP. Requires each political subdivision or agency that operates a PSAP in a county containing more than one PSAP, not later than July 1, 2014, to enter into an interlocal agreement with every other political subdivision or agency that operates a PSAP in the same county. Provides for the expiration on July 1, 2014, of provisions that: (1) establish a public safety communications system
(Continued next page)

Effective: July 1, 2010; July 1, 2014.

Stutzman

January 14, 2010, read first time and referred to Committee on Tax and Fiscal Policy.

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and computer facilities district in a county having a consolidated city; and (2) allow certain other counties to establish a public safety communications systems district. Provides for the expiration on July 1, 2011, of statutes concerning: (1) the local monthly enhanced emergency telephone system fee; and (2) the statewide monthly wireless enhanced 911 fee. Repeals statutes concerning: (1) the wireless enhanced 911 advisory board; and (2) emergency telephone notification systems. Specifies that funds remaining in the wireless emergency telephone system fund on July 1, 2011, are transferred to the statewide 911 fund. Specifies that funds remaining in: (1) a county wireless emergency telephone system fund; or (2) a county or municipal wireline emergency telephone system fund; on July 1, 2011, are transferred to the county's new 911 fund. Specifies that the funds transferred must be used first to meet any outstanding obligations incurred by the county or municipality in connection with its 911 system.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 408

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

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

1 SECTION 1. IC 5-26-1-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 5. As used in this article, "system"
3 refers to the Indiana statewide wireless public safety voice and data
4 communications system. The term does not include:

- 5 (1) the enhanced emergency telephone system under IC 36-8-16-2
- 6 **(before its expiration on July 1, 2011); or**
- 7 **(2) the statewide 911 system under IC 36-8-16.6-22.**

8 SECTION 2. IC 6-3.5-1.1-25, AS AMENDED BY P.L.146-2008,
9 SECTION 332, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2010]: Sec. 25. (a) As used in this section,
11 "public safety" refers to the following:

- 12 (1) A police and law enforcement system to preserve public peace
- 13 and order.
- 14 (2) A firefighting and fire prevention system.
- 15 (3) Emergency ambulance services (as defined in



- 1 IC 16-18-2-107).
- 2 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 3 (5) Emergency action (as defined in IC 13-11-2-65).
- 4 (6) A probation department of a court.
- 5 (7) Confinement, supervision, services under a community
- 6 corrections program (as defined in IC 35-38-2.6-2), or other
- 7 correctional services for a person who has been:
 - 8 (A) diverted before a final hearing or trial under an agreement
 - 9 that is between the county prosecuting attorney and the person
 - 10 or the person's custodian, guardian, or parent and that provides
 - 11 for confinement, supervision, community corrections services,
 - 12 or other correctional services instead of a final action
 - 13 described in clause (B) or (C);
 - 14 (B) convicted of a crime; or
 - 15 (C) adjudicated as a delinquent child or a child in need of
 - 16 services.
- 17 (8) A juvenile detention facility under IC 31-31-8.
- 18 (9) A juvenile detention center under IC 31-31-9.
- 19 (10) A county jail.
- 20 (11) A communications system (as defined in IC 36-8-15-3
- 21 **(before its expiration on July 1, 2014)), or an enhanced**
- 22 **emergency telephone system (as defined in IC 36-8-16-2 (before**
- 23 **its expiration on July 1, 2011)), or the statewide 911 system**
- 24 **(as defined in IC 36-8-16.6-22).**
- 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) If a county council has imposed a tax rate of at least twenty-five
- 39 hundredths of one percent (0.25%) under section 24 of this chapter, a
- 40 tax rate of at least twenty-five hundredths of one percent (0.25%) under
- 41 section 26 of this chapter, or a total combined tax rate of at least
- 42 twenty-five hundredths of one percent (0.25%) under sections 24 and

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1 26 of this chapter, the county council may also adopt an ordinance to
2 impose an additional tax rate under this section to provide funding for
3 public safety.

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

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

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

13 (f) Except as provided in subsection (k), the county auditor shall
14 distribute the portion of the certified distribution that is attributable to
15 a tax rate under this section to the county and to each municipality in
16 the county. The amount that shall be distributed to the county or
17 municipality is equal to the result of:

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

20 (2) a fraction equal to:

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

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

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

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

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

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

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1 chapter;

2 (2) the maximum permissible property tax levy under STEP

3 EIGHT of IC 6-1.1-18.5-3(b);

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

5 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of

6 IC 6-1.1-21); or

7 (4) the credit under IC 6-1.1-20.6.

8 (i) The tax rate under this section may be imposed or rescinded at

9 the same time and in the same manner that the county may impose or

10 increase a tax rate under section 24 of this chapter.

11 (j) The department of local government finance and the department

12 of state revenue may take any actions necessary to carry out the

13 purposes of this section.

14 (k) Two (2) or more political subdivisions that are entitled to receive

15 a distribution under this section may adopt resolutions providing that

16 some part or all of those distributions shall instead be paid to one (1)

17 political subdivision in the county to carry out specific public safety

18 purposes specified in the resolutions.

19 SECTION 3. IC 6-3.5-6-18, AS AMENDED BY P.L.182-2009(ss),

20 SECTION 222, IS AMENDED TO READ AS FOLLOWS

21 [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) The revenue a county

22 auditor receives under this chapter shall be used to:

23 (1) replace the amount, if any, of property tax revenue lost due to

24 the allowance of an increased homestead credit within the county;

25 (2) fund the operation of a public communications system and

26 computer facilities district as provided in an election, if any, made

27 by the county fiscal body under IC 36-8-15-19(b) **(before its**

28 **expiration on July 1, 2014)**;

29 (3) fund the operation of a public transportation corporation as

30 provided in an election, if any, made by the county fiscal body

31 under IC 36-9-4-42;

32 (4) make payments permitted under IC 36-7-14-25.5 or

33 IC 36-7-15.1-17.5;

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

35 (6) make distributions of distributive shares to the civil taxing

36 units of a county; and

37 (7) make the distributions permitted under sections 27, 28, 29, 30,

38 31, 32, and 33 of this chapter.

39 (b) The county auditor shall retain from the payments of the county's

40 certified distribution, an amount equal to the revenue lost, if any, due

41 to the increase of the homestead credit within the county. This money

42 shall be distributed to the civil taxing units and school corporations of

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1 the county as though they were property tax collections and in such a
 2 manner that no civil taxing unit or school corporation shall suffer a net
 3 revenue loss due to the allowance of an increased homestead credit.

4 (c) The county auditor shall retain:

5 (1) the amount, if any, specified by the county fiscal body for a
 6 particular calendar year under subsection (i), IC 36-7-14-25.5,
 7 IC 36-7-15.1-17.5, IC 36-8-15-19(b) **(before its expiration on**
 8 **July 1, 2014)**, and IC 36-9-4-42 from the county's certified
 9 distribution for that same calendar year; and

10 (2) the amount of an additional tax rate imposed under section 27,
 11 28, 29, 30, 31, 32, or 33 of this chapter.

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

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

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

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

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

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

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

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

41 (2) A fraction. The numerator of the fraction equals the budget of
 42 that civil taxing unit for that calendar year. The denominator of

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1 the fraction equals the aggregate budgets of all civil taxing units
2 of that county for that calendar year.

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

12 (i) Notwithstanding any other law, a county fiscal body may pledge
13 revenues received under this chapter (other than revenues attributable
14 to a tax rate imposed under section 30, 31, or 32 of this chapter) to the
15 payment of bonds or lease rentals to finance a qualified economic
16 development tax project under IC 36-7-27 in that county or in any other
17 county if the county fiscal body determines that the project will
18 promote significant opportunities for the gainful employment or
19 retention of employment of the county's residents.

20 SECTION 4. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008,
21 SECTION 342, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2010]: Sec. 31. (a) As used in this section,
23 "public safety" refers to the following:

- 24 (1) A police and law enforcement system to preserve public peace
25 and order.
- 26 (2) A firefighting and fire prevention system.
- 27 (3) Emergency ambulance services (as defined in
28 IC 16-18-2-107).
- 29 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 30 (5) Emergency action (as defined in IC 13-11-2-65).
- 31 (6) A probation department of a court.
- 32 (7) Confinement, supervision, services under a community
33 corrections program (as defined in IC 35-38-2.6-2), or other
34 correctional services for a person who has been:
 - 35 (A) diverted before a final hearing or trial under an agreement
36 that is between the county prosecuting attorney and the person
37 or the person's custodian, guardian, or parent and that provides
38 for confinement, supervision, community corrections services,
39 or other correctional services instead of a final action
40 described in clause (B) or (C);
 - 41 (B) convicted of a crime; or
 - 42 (C) adjudicated as a delinquent child or a child in need of

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- 1 services.
- 2 (8) A juvenile detention facility under IC 31-31-8.
- 3 (9) A juvenile detention center under IC 31-31-9.
- 4 (10) A county jail.
- 5 (11) A communications system (as defined in IC 36-8-15-3
- 6 **(before its expiration on July 1, 2014)), or an enhanced**
- 7 **emergency telephone system (as defined in IC 36-8-16-2 (before**
- 8 **its expiration on July 1, 2011)), or the statewide 911 system**
- 9 **(as defined in IC 36-8-16.6-22).**
- 10 (12) Medical and health expenses for jail inmates and other
- 11 confined persons.
- 12 (13) Pension payments for any of the following:
- 13 (A) A member of the fire department (as defined in
- 14 IC 36-8-1-8) or any other employee of a fire department.
- 15 (B) A member of the police department (as defined in
- 16 IC 36-8-1-9), a police chief hired under a waiver under
- 17 IC 36-8-4-6.5, or any other employee hired by a police
- 18 department.
- 19 (C) A county sheriff or any other member of the office of the
- 20 county sheriff.
- 21 (D) Other personnel employed to provide a service described
- 22 in this section.
- 23 (b) The county income tax council may adopt an ordinance to
- 24 impose an additional tax rate under this section to provide funding for
- 25 public safety if:
- 26 (1) the county income tax council has imposed a tax rate under
- 27 section 30 of this chapter, in the case of a county containing a
- 28 consolidated city; or
- 29 (2) the county income tax council has imposed a tax rate of at
- 30 least twenty-five hundredths of one percent (0.25%) under section
- 31 30 of this chapter, a tax rate of at least twenty-five hundredths of
- 32 one percent (0.25%) under section 32 of this chapter, or a total
- 33 combined tax rate of at least twenty-five hundredths of one
- 34 percent (0.25%) under sections 30 and 32 of this chapter, in the
- 35 case of a county other than a county containing a consolidated
- 36 city.
- 37 (c) A tax rate under this section may not exceed the following:
- 38 (1) Five-tenths of one percent (0.5%), in the case of a county
- 39 containing a consolidated city.
- 40 (2) Twenty-five hundredths of one percent (0.25%), in the case of
- 41 a county other than a county containing a consolidated city.
- 42 (d) If a county income tax council adopts an ordinance to impose a

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1 tax rate under this section, the county auditor shall send a certified
2 copy of the ordinance to the department and the department of local
3 government finance by certified mail.

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

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

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

14 (2) a fraction equal to:

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

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

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

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

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

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

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

40 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
41 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of
42 IC 6-1.1-21); or

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(4) the credit under IC 6-1.1-20.6.
(i) The tax rate under this section may be imposed or rescinded at the same time and in the same manner that the county may impose or increase a tax rate under section 30 of this chapter.

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

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

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

SECTION 5. IC 6-8.1-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Except as provided by section 20 of this chapter, this chapter applies to:

- (1) the gross retail tax imposed on mobile telecommunications service under IC 6-2.5-4-6;
 - (2) the monthly emergency wireless enhanced 911 fee imposed on mobile telecommunications service under IC 36-8-16.5 **and (before its expiration on July 1, 2011);**
 - (3) the statewide 911 fee imposed on communications service under IC 36-8-16.6; and**
 - ~~(4)~~ **(4)** any other tax, charge, or fee levied by the state or a taxing jurisdiction within Indiana as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications service, regardless of whether the tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee;
- on bills for mobile telecommunications service issued to customers after July 31, 2002.

- (b) This chapter does not apply to:
 - (1) any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of mobile telecommunications service;
 - (2) any tax, charge, or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis;
 - (3) any tax, charge, or fee that:

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- 1 (A) represents compensation for a mobile telecommunications
- 2 service provider's use of public rights-of-way or other public
- 3 property; and
- 4 (B) is not levied by the taxing jurisdiction as a fixed charge for
- 5 each customer or measured by gross amounts charged to
- 6 customers for mobile telecommunication service;
- 7 (4) any generally applicable business and occupation tax that is
- 8 imposed by the state, is applied to gross receipts or gross
- 9 proceeds, is the legal liability of the home service provider, and
- 10 that statutorily allows the home service provider to elect to use the
- 11 sourcing method required in this section; or
- 12 (5) the determination of the taxing situs of:
- 13 (A) prepaid telephone calling service; or
- 14 (B) air-ground radiotelephone service as defined in Section
- 15 22.99 of Title 47 of the Code of Federal Regulations as in
- 16 effect June 1, 1999.

17 SECTION 6. IC 24-5-22-10 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The following
 19 have a right of action against a person who initiates or assists the
 20 transmission of a commercial electronic mail message that violates this
 21 chapter:

- 22 (1) A person who receives the commercial electronic mail
- 23 message.
- 24 (2) An interactive computer service that handles or retransmits
- 25 the commercial electronic mail message.
- 26 (b) This chapter does not provide a right of action against:
- 27 (1) an interactive computer service;
- 28 (2) a telephone company; or
- 29 (3) a CMRS provider (as defined by ~~IC 36-8-16.5-6~~); **in**
- 30 **IC 36-8-16.6-6**);

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

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

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

- 40 (1) An injunction to enjoin future violations of this chapter.
- 41 (2) Compensatory damages equal to any actual damage proven by
- 42 the plaintiff to have resulted from the initiation of the commercial

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

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

10 (e) A person outside Indiana who:

- 11 (1) initiates or assists the transmission of a commercial electronic
- 12 mail message that violates this chapter; and
- 13 (2) knows or should know that the commercial electronic mail
- 14 message will be received in Indiana;

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

16 chapter.

17 SECTION 7. IC 34-30-2-156 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 156. IC 36-8-16-18
19 **(before its expiration on July 1, 2011)** (Concerning service suppliers
20 or telephone companies for loss, death, or injury related to an enhanced
21 emergency telephone system).

22 SECTION 8. IC 34-30-2-156.1 IS ADDED TO THE INDIANA
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2010]: **Sec. 156.1. IC 36-8-16.6-48**
25 **(Concerning the statewide 911 board, a PSAP, a political**
26 **subdivision, a communications service provider, a member of the**
27 **board, or the board chair for loss, death, or injury related to a**
28 **statewide 911 system).**

29 SECTION 9. IC 35-45-5-4.7, AS AMENDED BY P.L.27-2006,
30 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2010]: Sec. 4.7. (a) An interactive computer service that
32 handles or retransmits a commercial electronic mail message has a
33 right of action against a person who initiates or assists the transmission
34 of the commercial electronic mail message that violates this chapter.

- 35 (b) This chapter does not provide a right of action against:
 - 36 (1) an interactive computer service;
 - 37 (2) a telephone company;
 - 38 (3) a CMRS provider (as defined in ~~IC 36-8-16.5-6~~);
 - 39 **IC 36-8-16.6-6**);
 - 40 (4) a cable operator (as defined in 47 U.S.C. 522(5)); or
 - 41 (5) any other entity that primarily provides connectivity to an
 - 42 operator;

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

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

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

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

 - 19 (A) to the plaintiff; or
 - 20 (B) through the plaintiff's interactive computer service.

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

23 (e) A person outside Indiana who:

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

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

30 SECTION 10. IC 36-1-10-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this
32 chapter:

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

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

36 "Structure" means:

- 37 (1) a building used in connection with the operation of a political
- 38 subdivision; or
- 39 (2) a parking facility.

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

42 "System" means:

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- 1 (1) a computer (as defined in IC 36-8-15-4) (**before its**
- 2 **expiration on July 1, 2014**);
- 3 (2) a communications system (as defined in IC 36-8-15-3(1)
- 4 **(before its expiration on July 1, 2014))**; or
- 5 (3) mobile or remote equipment that is coordinated by or linked
- 6 with a computer or communications system.

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

12 SECTION 11. IC 36-7-4-405 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 405. (a) ADVISORY
 14 – AREA. Each plan commission shall:

- 15 (1) make recommendations to the legislative body or bodies
- 16 concerning:
 - 17 (A) the adoption of the comprehensive plan and amendments
 - 18 to the comprehensive plan;
 - 19 (B) the adoption or text amendment of:
 - 20 (i) an initial zoning ordinance;
 - 21 (ii) a replacement zoning ordinance; and
 - 22 (iii) a subdivision control ordinance;
 - 23 (C) the adoption or amendment of a PUD district ordinance (as
 - 24 defined in section 1503 of this chapter); and
 - 25 (D) zone map changes; and
- 26 (2) render decisions concerning and approve plats, replats, and
- 27 amendments to plats of subdivisions under the 700 series of this
- 28 chapter.
- 29 (b) Each plan commission:
 - 30 (1) shall assign street numbers to lots and structures;
 - 31 (2) shall renumber lots and structures; and
 - 32 (3) if the plan commission does not have the power under an
 - 33 ordinance adopted under subsection (c) to name or rename streets,
 - 34 may recommend the naming and renaming of streets to the
 - 35 executive.
 - 36 (c) The executive shall name or rename streets. However, a unit may
 - 37 provide by ordinance that the plan commission rather than the
 - 38 executive shall name or rename streets. Streets shall be named or
 - 39 renamed so that their names are easy to understand and to avoid
 - 40 duplication or conflict with other names. The plan commission may, by
 - 41 rule, prescribe a numbering system for lots and structures.
 - 42 (d) This subsection applies to a plan commission having jurisdiction

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1 in a county with a population of at least four hundred thousand
2 (400,000). The plan commission shall number structures on highways
3 within the plan commission's jurisdiction to conform with the numbers
4 of structures on streets within cities in the county.

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

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

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

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

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

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

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

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

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

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

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

27 (2) the administrator of the enhanced emergency telephone
28 system established under IC 36-8-16 (**before its expiration on**
29 **July 1, 2011**), if any, **and the statewide 911 board established**
30 **by IC 36-8-16.6-26;**

31 (3) the United States Postal Service; and

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

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

36 (i) Each plan commission shall make decisions concerning
37 development plans and amendments to development plans under the
38 1400 series of this chapter, unless the responsibility to render decisions
39 concerning development plans has been delegated under section
40 1402(c) of this chapter.

41 SECTION 12. IC 36-8-15-0.5 IS ADDED TO THE INDIANA
42 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. This chapter expires July 1,**
 2 **2014.**
 3 SECTION 13. IC 36-8-15.1 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2014]:
 6 **Chapter 15.1. Public Communications Systems; Transitional**
 7 **Matters**
 8 **Sec. 1. (a) Notwithstanding the expiration of IC 36-8-15 on July**
 9 **1, 2014:**
 10 (1) a public safety communications systems and computer
 11 facilities district created by IC 36-8-15-7(a) (before its
 12 expiration on July 1, 2014); and
 13 (2) a public safety communications systems district created
 14 under IC 36-8-15-7(b) (before its expiration on July 1, 2014);
 15 remain in existence until such time as all bonds, loans, lease
 16 payments, or other obligations that were issued, obtained, or
 17 incurred by the district before July 1, 2014, are satisfied according
 18 to their terms.
 19 (b) Notwithstanding the expiration of IC 36-8-15-14 on July 1,
 20 2014, all taxable property located within:
 21 (1) a public safety communications systems and computer
 22 facilities district created by IC 36-8-15-7(a) (before its
 23 expiration on July 1, 2014); and
 24 (2) a public safety communications systems district created
 25 under IC 36-8-15-7(b) (before its expiration on July 1, 2014);
 26 remains subject to a special benefits tax under IC 36-8-15-14
 27 (before its expiration on July 1, 2014) until such time as revenue
 28 from the tax is no longer needed by the district to satisfy any
 29 bonds, loans, lease payments, or other obligations that were issued,
 30 obtained, or incurred by the district before July 1, 2014.
 31 (c) Notwithstanding the expiration of IC 36-8-15-18 on July 1,
 32 2014, all property located within a public safety communications
 33 systems and computer facilities district in a county having a
 34 consolidated city remains subject to a special tax under
 35 IC 36-8-15-18 (before its expiration on July 1, 2014) until such time
 36 as revenue from the special tax is no longer needed by the district
 37 to satisfy any bonds that were issued by the district before July 1,
 38 2014.
 39 (d) Notwithstanding the expiration of IC 36-8-15-19 on July 1,
 40 2014, all property located within a public safety communications
 41 systems district in a county not having a consolidated city remains
 42 subject to an ad valorem property tax under IC 36-8-15-19(a)

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(before its expiration on July 1, 2014) until such time as revenue from the tax is no longer needed by the district to satisfy any bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before July 1, 2012.

(c) After June 30, 2014:

(1) a public safety communications systems and computer facilities district created by IC 36-8-15-7(a) (before its expiration on July 1, 2014); and

(2) a public safety communications systems district created under IC 36-8-15-7(b) (before its expiration on July 1, 2014); may not pledge revenue from any bonds issued or taxes levied under IC 36-8-15 (before its expiration on July 1, 2014) before July 1, 2014.

Sec. 2. Not later than November 1 of each year:

(1) a public safety communications systems and computer facilities district created by IC 36-8-15-7(a) (before its expiration on July 1, 2014); and

(2) a public safety communications systems district created under IC 36-8-15-7(b) (before its expiration on July 1, 2014); shall report in an electronic format under IC 5-14-6 to the general assembly whether all bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before July 1, 2014, are satisfied according to their terms. If the general assembly determines, based on a report submitted under this subsection, that all bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before July 1, 2014, are satisfied according to their terms, the general assembly shall introduce legislation during the immediately following legislative session to repeal this chapter.

SECTION 14. IC 36-8-16-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. This chapter expires July 1, 2011.

SECTION 15. IC 36-8-16-14, AS AMENDED BY P.L.137-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) The emergency telephone system fees shall be used only to pay for:

(1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;

(2) the rates associated with the service suppliers' enhanced

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- 1 emergency telephone system network services;
- 2 (3) the personnel expenses of the emergency telephone system;
- 3 (4) the lease, purchase, construction, or maintenance of voice and
- 4 data communications equipment, communications infrastructure,
- 5 or other information technology necessary to provide emergency
- 6 response services under authority of the unit imposing the fee;
- 7 and
- 8 (5) an emergency telephone notification system under ~~IC 36-8-21~~.
- 9 **IC 36-8-16.6-45.**

10 The legislative body of the unit may appropriate money in the fund
 11 only for such an expenditure.

- 12 (b) This subsection applies to a county that:
- 13 (1) imposes a fee under section 5 of this chapter; and
- 14 (2) contains a municipality that operates a PSAP (as defined in
- 15 IC 36-8-16.5-13).

16 Not later than January 31 of each year, the county fiscal body shall
 17 submit to each municipality described in subdivision (2) a report of all
 18 expenditures described in subsection (a) paid during the immediately
 19 preceding calendar year.

20 (c) The state board of accounts shall audit the expenditures of
 21 emergency telephone system fees made during each of the following
 22 calendar years by each unit that imposed a fee under section 5 of this
 23 chapter during the following calendar years:

- 24 (1) The calendar year ending December 31, 2005.
- 25 (2) The calendar year ending December 31, 2006.
- 26 (3) The calendar year ending December 31, 2007.

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

30 (d) The state board of accounts annually shall audit the expenditures
 31 of emergency telephone system fees made during the immediately
 32 preceding calendar year by each unit that imposes a fee under section
 33 5 of this chapter. The state board of accounts shall conduct the first
 34 audits required by this subsection with respect to expenditures of
 35 emergency telephone system fees made during the calendar year ending
 36 December 31, 2008.

37 (e) In conducting the audits required under subsections (c) and (d),
 38 the state board of accounts shall determine whether the expenditures
 39 made by each unit are in compliance with:

- 40 (1) subsection (a); and
- 41 (2) section 15 of this chapter, as appropriate.

42 SECTION 16. IC 36-8-16-18, AS AMENDED BY P.L.104-2006,

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1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2010]: Sec. 18. A service supplier or a telephone company
 3 and its employees, directors, officers, and agents are not liable for any
 4 damages in a civil action for injuries, death, or loss to persons or
 5 property incurred by any person as a result of any act or omission of a
 6 service supplier or a telephone company, or of any of its employees,
 7 directors, officers, or agents, except for willful or wanton misconduct
 8 in connection with developing, adopting, implementing, maintaining,
 9 providing data to, or operating an enhanced emergency telephone
 10 system, including an emergency telephone notification system (as
 11 defined in ~~IC 36-8-21-1~~; **IC 36-8-16.6-45**).

12 SECTION 17. IC 36-8-16.5-0.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. This chapter expires July 1,**
 15 **2011.**

16 SECTION 18. IC 36-8-16.5-2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this
 18 chapter, "automatic location identification" means a wireless enhanced
 19 911 service capability that provides pseudo-automatic number
 20 identification that can be used to identify a specific cell site
 21 transmitting a 911 call: **has the meaning set forth in IC 36-8-16.6-2.**

22 SECTION 19. IC 36-8-16.5-3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. As used in this
 24 chapter, "automatic number identification" means a wireless enhanced
 25 911 service capability that enables the transmission of the ten (10) digit
 26 mobile handset telephone number used to place a 911 call: **has the**
 27 **meaning set forth in IC 36-8-16.6-3.**

28 SECTION 20. IC 36-8-16.5-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. As used in this
 30 chapter, "board" refers to the wireless enhanced statewide 911
 31 advisory board established by ~~section 18 of this chapter~~:
 32 **IC 36-8-16.6-26.**

33 SECTION 21. IC 36-8-16.5-5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. As used in this
 35 chapter, "CMRS" refers to the commercial mobile radio service (as
 36 defined by 47 U.S.C. 332(d)(1)). The term includes the following:

- 37 (1) Services commonly referred to as wireless;
- 38 (2) Services provided by a wireless real time two-way voice
 39 communication device, including radio-telephone
 40 communications used in:
 - 41 (A) cellular telephone service;
 - 42 (B) personal communications service; or

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- 1 ~~(C)~~ the functional or competitive equivalent of a
- 2 radio-telephone communications line used in:
- 3 (i) cellular telephone service;
- 4 (ii) a personal communications service; or
- 5 (iii) a network radio access line.
- 6 ~~(3)~~ Any other wireless service that provides the user with direct
- 7 access to a PSAP through the placement of a 911 call.

8 **has the meaning set forth in IC 36-8-16.6-5.**

9 SECTION 22. IC 36-8-16.5-6 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this
 11 chapter, "CMRS provider" refers to a person or entity that provides
 12 ~~CMRS service. The term includes facilities based and nonfacilities~~
 13 ~~based resellers. **has the meaning set forth in IC 36-8-16.6-6.**~~

14 SECTION 23. IC 36-8-16.5-7 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. As used in this
 16 chapter, "FCC order" refers to the order of the Federal Communications
 17 Commission, FCC Docket No. 94-102, adopted June 12, 1996, with an
 18 effective date of October 1, 1996. **has the meaning set forth in**
 19 **IC 36-8-16.6-9.**

20 SECTION 24. IC 36-8-16.5-13 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. As used in this
 22 chapter, "PSAP" refers to the public safety answering point that is the
 23 public safety agency that receives incoming 911 calls and dispatches
 24 appropriate public safety agencies to respond to the calls. **has the**
 25 **meaning set forth in IC 36-8-16.6-19.**

26 SECTION 25. IC 36-8-16.5-39, AS AMENDED BY P.L.146-2005,
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2010]: Sec. 39. (a) Except as provided by section 26 of this
 29 chapter and subsections (b) and (c), the fund must be managed in the
 30 following manner:

- 31 (1) Three cents (\$0.03) of the wireless emergency 911 fee
- 32 collected from each subscriber must be deposited in an escrow
- 33 account to be used to reimburse:
- 34 (A) CMRS providers, PSAPs, and the board for costs
- 35 associated with implementation of phase two (2) of the FCC
- 36 order; and
- 37 (B) the board for costs associated with other wireless enhanced
- 38 911 services mandated by the FCC and specified in the FCC
- 39 order but not incurred by CMRS providers or PSAPs.
- 40 A CMRS provider or a PSAP may recover costs under this
- 41 chapter if the costs are incurred before July 1, 2005, and invoiced
- 42 to the board not later than December 31, 2005. The board may

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1 invest money in the account in the manner prescribed by section
2 23 of this chapter and may use the proceeds of the investments to
3 reimburse CMRS providers and PSAPs under this subdivision.

4 (2) At least twenty-five cents (\$0.25) of the wireless emergency
5 911 fee collected from each subscriber must be deposited in an
6 escrow account and used to reimburse CMRS providers for the
7 actual costs incurred by the CMRS providers before July 1, 2005,
8 in complying with the wireless 911 requirements established by
9 the FCC order and rules that are adopted by the FCC under the
10 FCC order, including costs and expenses incurred in designing,
11 upgrading, purchasing, leasing, programming, installing, testing,
12 or maintaining all necessary data, hardware, and software
13 required to provide service as well as the costs of operating the
14 service. The board may invest money in the account in the manner
15 prescribed by section 23 of this chapter and may use the proceeds
16 of the investments to reimburse CMRS providers under this
17 subdivision. The CMRS provider may only request funds for true
18 cost recovery. The board may increase the amount held in escrow
19 under this subdivision not more than one (1) time a calendar year.
20 If the board adjusts the wireless emergency 911 fee under section
21 26(a) of this chapter within a calendar year, an adjustment to the
22 amount held in escrow under this subdivision for the calendar
23 year must be made at that time.

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

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

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

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

42 (ii) accept wireless enhanced 911 service;

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1 for actual costs incurred by the PSAPs in complying with the
 2 wireless enhanced 911 requirements established by the FCC
 3 order and rules.
 4 (B) The amount of the fee remaining, if any, after the
 5 distributions required under clause (A) must be distributed in
 6 equal shares between the escrow accounts established under
 7 subdivisions (1) and (2).
 8 (b) Notwithstanding the requirements described in subsection (a),
 9 the board may transfer money between and among the accounts in
 10 subsection (a) in accordance with the following procedures:
 11 (1) For purposes of acting under this subsection, the board must
 12 have a quorum consisting of at least one (1) member appointed
 13 under ~~section 18(c)(2) of this chapter~~ **IC 36-8-16.6-26(c)(2)** and
 14 at least one (1) member appointed under ~~section 18(c)(3) of this~~
 15 ~~chapter~~ **IC 36-8-16.6-26(c)(3)**.
 16 (2) A transfer under this subsection must be approved by the
 17 affirmative vote of:
 18 (A) at least fifty percent (50%) of the members present at a
 19 duly called meeting of the board who are appointed under
 20 ~~section 18(c)(2) of this chapter~~ **IC 36-8-16.6-26(c)(2)**; and
 21 (B) ~~at least fifty percent (50%) of the members present at a~~
 22 ~~duly called meeting of the board who are the member~~
 23 ~~appointed under section 18(c)(3) of this chapter~~.
 24 **IC 36-8-16.6-26(c)(3)**.
 25 (3) The board may make transfers only one (1) time during a
 26 calendar year.
 27 (4) The board may not make a transfer that:
 28 (A) impairs cost recovery by CMRS providers or PSAPs; or
 29 (B) impairs the ability of the board to fulfill its management
 30 and administrative obligations described in this chapter.
 31 (c) If all CMRS providers have been reimbursed for their costs
 32 under this chapter, and the fee has been reduced under section 26(c) of
 33 this chapter, the board shall manage the fund in the following manner:
 34 (1) One cent (\$0.01) of the wireless emergency 911 fee collected
 35 from each subscriber may be used by the board to recover the
 36 board's expenses in administering this chapter. However, the
 37 board may increase this amount at the time the board may adjust
 38 the monthly fee assessed against each subscriber to allow for full
 39 recovery of administration expenses.
 40 (2) Thirty-eight and three tenths cents (\$0.383) of the wireless
 41 emergency 911 fee collected from each subscriber must be
 42 distributed to each county containing at least one (1) PSAP, as

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identified in the county notice required by section 40 of this chapter. The board shall make these distributions in the following manner:

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

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

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

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

(C) The board shall deposit the remainder of the wireless emergency 911 fee collected from each subscriber into an escrow account to be used for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by PSAPs. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments for costs associated with other wireless enhanced 911 services mandated by the FCC but not specified in the FCC order or to make distributions to PSAPs under this section.

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

This subsection does not affect the transfer provisions set forth in subsection (b).

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

Chapter 16.6. Statewide 911 Services

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

4 **Sec. 2. (a)** As used in this chapter, "automatic location
5 identification" means an enhanced 911 service capability that
6 enables the transmission of information concerning the location of
7 a person who accesses the statewide 911 system.

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

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

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

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

21 **Sec. 3.** As used in this chapter, "automatic number
22 identification" means an enhanced 911 service capability that
23 enables the transmission and display of the ten (10) digit telephone
24 number used to access a PSAP through the statewide 911 system.

25 **Sec. 4.** As used in this chapter, "board" refers to the statewide
26 911 board established by section 26 of this chapter.

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

29 **(b)** The term includes the following:

30 (1) Services commonly referred to as wireless.

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

34 (A) cellular telephone service;

35 (B) personal communications service; or

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

38 (i) cellular telephone service;

39 (ii) a personal communications service; or

40 (iii) a network radio access line.

41 (3) Any other wireless service that provides access to a PSAP
42 for purposes of the statewide 911 system.

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

3 **Sec. 7. (a) As used in this chapter, "communications service"**
 4 **means any service or device that:**

5 **(1) uses telephone numbers or IP addresses or their functional**
 6 **equivalents or successors;**

7 **(2) is capable of accessing, connecting with, or interfacing**
 8 **with a 911 system by dialing, initializing, or otherwise**
 9 **activating the 911 system regardless of the transmission**
 10 **medium or technology employed;**

11 **(3) provides or enables real time or interactive**
 12 **communications; and**

13 **(4) is either prepaid or postpaid by the subscriber or user.**

14 **(b) The term includes the following:**

15 **(1) Internet protocol enabled services and applications that**
 16 **are provided through wireline, cable, wireless, or satellite**
 17 **facilities, or any other facility or platform that is capable of**
 18 **connecting a 911 call to a PSAP.**

19 **(2) A multiline telephone system.**

20 **(3) CMRS.**

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

22 **Sec. 8. As used in this chapter, "executive director" means the**
 23 **executive director of the board.**

24 **Sec. 9. (a) As used in this chapter, "FCC order" refers to the**
 25 **order of the Federal Communications Commission, FCC Docket**
 26 **No. 94-102, adopted June 12, 1996, with an effective date of**
 27 **October 1, 1996.**

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

31 **Sec. 10. As used in this chapter, "fund" refers to the statewide**
 32 **911 fund established by section 31 of this chapter.**

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

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

37 **Sec. 13. As used in this chapter, "multiline telephone system"**
 38 **means a voice communications service system that includes the**
 39 **following:**

40 **(1) Common control units.**

41 **(2) Telephone sets.**

42 **(3) Control hardware and software.**

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- 1 **(4) Adjunct systems.**
 2 **The term includes network and premises based systems as**
 3 **classified by FCC Part 68 Requirements.**
 4 **Sec. 14. As used in this chapter, "prepaid 911 fee" means the fee**
 5 **that is imposed on and collected from a prepaid user under section**
 6 **37 of this chapter.**
 7 **Sec. 15. As used in this chapter, "prepaid communications**
 8 **service" means a right:**
 9 **(1) to purchase communications service, either exclusively or**
 10 **in conjunction with other services;**
 11 **(2) that must be paid for in advance; and**
 12 **(3) that is sold in:**
 13 **(A) units; or**
 14 **(B) dollar amounts;**
 15 **that decline with use and that are known on a continuous**
 16 **basis.**
 17 **Sec. 16. As used in this chapter, "prepaid user" refers to a user**
 18 **of prepaid communications service who:**
 19 **(1) is issued an Indiana telephone number or an Indiana**
 20 **identification number for the service; or**
 21 **(2) purchases prepaid communications service in a retail**
 22 **transaction that is sourced to Indiana (as determined under**
 23 **IC 6-2.5-12-16).**
 24 **Sec. 17. As used in this chapter, "proprietary information"**
 25 **includes the following:**
 26 **(1) Customer lists and related information.**
 27 **(2) Technology descriptions, technical information, or trade**
 28 **secrets (as defined in IC 24-2-3-2).**
 29 **(3) Information concerning the actual or developmental costs**
 30 **of 911 systems that are developed, produced, or received**
 31 **internally by a provider or by a provider's employees,**
 32 **directors, officers, or agents.**
 33 **Sec. 18. (a) As used in this chapter, "provider" means a person**
 34 **or entity, or an affiliate of a person or an entity, that:**
 35 **(1) offers communications service to users in Indiana; and**
 36 **(2) provides, or is required by the Federal Communications**
 37 **Commission to provide, a user with direct access to a PSAP**
 38 **through the statewide 911 system.**
 39 **(b) The term includes the following:**
 40 **(1) Facilities based and nonfacilities based resellers of**
 41 **communications service.**

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1 (2) Any other provider of communications service through
2 wireline or wireless means, regardless of whether the provider
3 is subject to regulation by the Indiana utility regulatory
4 commission.

5 Sec. 19. As used in this chapter, "PSAP" refers to a public safety
6 answering point:

7 (1) that operates on a twenty-four (24) hour basis; and
8 (2) whose primary function is to receive incoming emergency
9 requests for assistance and relay those requests to an
10 appropriate responding public safety agency.

11 Sec. 20. As used in this chapter, "retail transaction" means the
12 purchase of prepaid communications service from a seller for any
13 purpose other than resale.

14 Sec. 21. As used in this chapter, "seller" means a person that
15 sells prepaid communications service to another person. The term
16 includes a provider of prepaid communications service.

17 Sec. 22. As used in this chapter, "standard user" refers to a user
18 of communications service who pays retrospectively for the service
19 and has an Indiana billing address for the service.

20 Sec. 23. (a) As used in this chapter, "statewide 911 system"
21 means a communications system that uses the three (3) digit
22 number 911 to send automatic number identification and
23 automatic location identification, or the functional equivalents or
24 successors of automatic number identification and automatic
25 location identification, for reporting emergency situations.

26 (b) The term includes the following:

27 (1) A wireline enhanced emergency telephone system funded
28 under IC 36-8-16 (before its expiration on July 1, 2011).
29 (2) A wireless 911 emergency telephone system funded under
30 IC 36-8-16.5 (before its expiration on July 1, 2011).
31 (3) An emergency telephone notification system established
32 under IC 36-8-21-4.

33 Sec. 24. As used in this chapter, "user" refers to:

34 (1) a standard user of communications service;
35 (2) a prepaid user of communications service; or
36 (3) any other person that uses a communications service to
37 access the statewide 911 system.

38 Sec. 25. As used in this chapter, "VOIP provider" means a
39 provider that offers interconnected VOIP service to subscribers in
40 Indiana.

41 Sec. 26. (a) The statewide 911 board is established to develop,
42 implement, and oversee the statewide 911 system. The board is a

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1 **body corporate and politic, and though it is separate from the state,**
 2 **the exercise by the board of its powers constitutes an essential**
 3 **governmental function.**

4 **(b) The following recommendations must be made to the**
 5 **governor concerning the membership of the board:**

6 **(1) The executive committees of:**

7 **(A) the Indiana chapter of the National Emergency**
 8 **Number Association (NENA); and**

9 **(B) the Indiana chapter of the Association of Public Safety**
 10 **Communication Officials International (APCO);**

11 **shall jointly recommend three (3) individuals. Each individual**
 12 **recommended under this subdivision must be an employee of**
 13 **a PSAP.**

14 **(2) The CMRS providers authorized to provide CMRS in**
 15 **Indiana shall jointly recommend one (1) individual.**

16 **(3) The Indiana Association of County Commissioners shall**
 17 **recommend one (1) individual.**

18 **(4) The Indiana Sheriffs' Association shall recommend one (1)**
 19 **individual.**

20 **(5) The Indiana Telephone Association shall recommend two**
 21 **(2) individuals as follows:**

22 **(A) One (1) individual representing a local exchange**
 23 **carrier that serves less than fifty thousand (50,000) local**
 24 **exchange access lines in Indiana.**

25 **(B) One (1) individual representing a local exchange**
 26 **carrier that serves at least fifty thousand (50,000) local**
 27 **exchange access lines in Indiana.**

28 **(6) The Indiana Cable Telecommunications Association shall**
 29 **recommend one (1) individual.**

30 **(c) The board consists of the following eleven (11) members:**

31 **(1) The treasurer of state or the treasurer's designee. The**
 32 **treasurer of state or the treasurer's designee is chairperson of**
 33 **the board for a term concurrent with the treasurer of state's**
 34 **term of office. However, the treasurer of state's designee**
 35 **serves at the pleasure of the treasurer of state.**

36 **(2) Three (3) members for a term of three (3) years who are**
 37 **appointed by the governor after considering the**
 38 **recommendations of the executive committees of NENA and**
 39 **APCO that are submitted under subsection (b)(1). A member**
 40 **appointed under this subdivision must have budget experience**
 41 **at the local level.**

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1 (3) One (1) CMRS member who is appointed by the governor
 2 after considering the recommendation of the CMRS providers
 3 that is submitted under subsection (b)(2). A member
 4 appointed under this subdivision may not be affiliated with
 5 the same business entity as a member appointed under
 6 subdivision (6), (7), (8), or (9).

7 (4) One (1) county commissioner member appointed by the
 8 governor after considering the recommendation of the
 9 Indiana Association of County Commissioners that is
 10 submitted under subsection (b)(3).

11 (5) One (1) county sheriff member appointed by the governor
 12 after considering the recommendation of the Indiana Sheriffs'
 13 Association that is submitted under subsection (b)(4).

14 (6) One (1) local exchange carrier member that serves less
 15 than fifty thousand (50,000) local exchange access lines in
 16 Indiana appointed by the governor after considering the
 17 recommendation of the Indiana Telephone Association under
 18 subsection (b)(5)(A). A member appointed under this
 19 subdivision may not be affiliated with the same business entity
 20 as a member appointed under subdivision (3), (7), (8), or (9).

21 (7) One (1) local exchange carrier member that serves at least
 22 fifty thousand (50,000) local exchange access lines in Indiana
 23 appointed by the governor after considering the
 24 recommendation of the Indiana Telephone Association under
 25 subsection (b)(5)(B). A member appointed under this
 26 subdivision may not be affiliated with the same business entity
 27 as a member appointed under subdivision (3), (6), (8), or (9).

28 (8) One (1) VOIP provider who is appointed by the governor
 29 after considering the recommendation of the Indiana Cable
 30 Telecommunications Association under subsection (b)(6). A
 31 member appointed under this subdivision may not be
 32 affiliated with the same business entity as a member
 33 appointed under subdivision (3), (6), (7), or (9).

34 (9) One (1) member from the public appointed by the
 35 governor. A member appointed under this subdivision may
 36 not be employed by or otherwise affiliated with the same
 37 business entity as a member appointed under subdivision (3),
 38 (6), (7), or (8).

39 (d) This subsection applies to a member appointed by the
 40 governor under subsection (c)(2) through (c)(9). The governor shall
 41 ensure that the terms of the initial members appointed by the
 42 governor are staggered so that the terms of not more than four (4)

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1 members expire in a single calendar year. After the initial
 2 appointments, subsequent appointments shall be for three (3) year
 3 terms. A vacancy on the board shall be filled for the vacating
 4 member's unexpired term in the same manner as the original
 5 appointment, and a member of the board is eligible for
 6 reappointment. In making an appointment under subsection (c)(2)
 7 through (c)(9), the governor shall take into account the various
 8 geographical areas of Indiana, including rural and urban areas. A
 9 member appointed by the governor serves at the pleasure of the
 10 governor.

11 (e) This subsection applies to a member appointed under
 12 subsection (c)(2) through (c)(9). A member shall submit the name
 13 of a designee to the board. The board shall maintain a list of
 14 approved designees. A member may appoint a listed designee to fill
 15 the member's position under subsection (c) or to act on behalf of
 16 the member at a meeting of the board. The designee serves at the
 17 pleasure of the appointing member.

18 (f) A member or a designee must be a resident of Indiana.

19 (g) A member or a designee may vote by proxy.

20 Sec. 27. A majority of the members of the board constitutes a
 21 quorum for purposes of taking action.

22 Sec. 28. (a) Each member of the board who is not a state
 23 employee is not entitled to receive the minimum salary per diem
 24 provided by IC 4-10-11-2.1(b). The member is, however, entitled to
 25 reimbursement for traveling expenses as provided under
 26 IC 4-13-1-4 and other expenses actually incurred in connection
 27 with the member's duties as provided in the state policies and
 28 procedures established by the Indiana department of
 29 administration and approved by the budget agency.

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

36 Sec. 29. The board may do the following to implement this
 37 chapter:

- 38 (1) Sue and be sued.
 39 (2) Adopt and alter an official seal.
 40 (3) Adopt and enforce bylaws and rules for:
 41 (A) the conduct of board business; and
 42 (B) the use of board services and facilities.

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- 1 **(4) Acquire, hold, use, and otherwise dispose of its income,**
- 2 **revenues, funds, and money.**
- 3 **(5) Enter into contracts, including contracts:**
- 4 **(A) for professional services;**
- 5 **(B) for purchase of supplies or services; and**
- 6 **(C) to acquire office space.**
- 7 **(6) Hire staff.**
- 8 **(7) Adopt rules under IC 4-22-2 to implement this chapter.**
- 9 **(8) Develop, maintain, and update a statewide 911 plan.**
- 10 **(9) Administer the statewide 911 fund established by section**
- 11 **31 of this chapter.**
- 12 **(10) Administer and distribute the statewide 911 fee in**
- 13 **accordance with section 42 of this chapter.**
- 14 **(11) Take other necessary or convenient actions to implement**
- 15 **this chapter that are not inconsistent with Indiana law.**
- 16 **Sec. 30. (a) The treasurer of state shall appoint an executive**
- 17 **director of the board to do the following:**
- 18 **(1) Administer, manage, and direct employees of the board.**
- 19 **(2) Approve salaries and allowable expenses for board**
- 20 **members, employees, and consultants.**
- 21 **(3) Attend board meetings and record all proceedings of the**
- 22 **board. However, the executive director is not considered a**
- 23 **member of the board for any purpose, including voting or**
- 24 **establishing a quorum.**
- 25 **(4) Maintain books, documents, and papers filed with the**
- 26 **board, including minutes.**
- 27 **(5) Perform other duties as directed by the board.**
- 28 **The treasurer of state shall determine the salary and other**
- 29 **compensation of the executive director.**
- 30 **(b) An executive director appointed under subsection (a) must**
- 31 **have at least three (3) years executive experience with a 911**
- 32 **system.**
- 33 **Sec. 31. (a) The statewide 911 fund is established for the purpose**
- 34 **of creating and maintaining a uniform statewide 911 system. The**
- 35 **board shall administer the fund. The expenses of administering the**
- 36 **fund must be paid from money in the fund.**
- 37 **(b) The fund consists of the following:**
- 38 **(1) The statewide 911 fee assessed on users under section 34**
- 39 **of this chapter.**
- 40 **(2) Appropriations made by the general assembly.**
- 41 **(3) Grants and gifts intended for deposit in the fund.**
- 42 **(4) Interest, premiums, gains, or other earnings on the fund.**

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- 1 **(5) Money from any other source that is deposited in or**
- 2 **transferred to the fund.**
- 3 **(c) The board may invest money in the fund in the same manner**
- 4 **as other funds of the state may be invested under IC 5-13. In**
- 5 **addition, the board may invest money in the fund in any of the**
- 6 **following:**
- 7 **(1) Corporate bonds, notes, and debentures, subject to the**
- 8 **following conditions:**
- 9 **(A) Maximum participation in any issue is limited to seven**
- 10 **percent (7%) of the total issue.**
- 11 **(B) The board shall establish minimum quality rating**
- 12 **standards and maximum purchase amount standards for**
- 13 **corporate issues.**
- 14 **(2) Investments maturing in one (1) year or less, subject to the**
- 15 **following conditions:**
- 16 **(A) These investments must be:**
- 17 **(i) Prime-1 commercial paper; and**
- 18 **(ii) banker's acceptance approved by banks' trust**
- 19 **investment committees.**
- 20 **(B) The maximum amount may not exceed fifty percent**
- 21 **(50%) of the fund.**
- 22 **(d) Whenever the quality, maturity, and yield of an investment**
- 23 **in an Indiana corporation or in a corporation that does business in**
- 24 **Indiana are equal to or better than similar investments in other**
- 25 **corporations, preference shall be given to investment in the**
- 26 **Indiana corporation or in the corporation that does business in**
- 27 **Indiana.**
- 28 **(e) Money in the fund at the end of a state fiscal year does not**
- 29 **revert to the state general fund.**
- 30 **(f) Money in the fund is continuously appropriated for the**
- 31 **purposes of the fund.**
- 32 **Sec. 32. (a) The board shall select a third party to audit the fund**
- 33 **on an annual basis to determine whether the fund is being managed**
- 34 **in accordance with this chapter.**
- 35 **(b) Every year, the board shall review 911 service in Indiana,**
- 36 **including the collection, disbursement, and use of the statewide 911**
- 37 **fee assessed under section 34 of this chapter. The purpose of the**
- 38 **review is to ensure that the statewide 911 fees:**
- 39 **(1) do not exceed the amount reasonably necessary to provide**
- 40 **adequate and efficient 911 service; and**
- 41 **(2) are used only for the purposes set forth in this chapter.**

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1 **Sec. 33. The board may retain an independent, third party**
2 **accounting firm or fiscal agent for purposes of processing checks**
3 **and distributing funds as directed by the board and as allowed by**
4 **this chapter. The board shall pay for these services as an**
5 **administrative cost of the board.**

6 **Sec. 34. (a) Beginning July 1, 2011, the board shall assess a**
7 **statewide 911 fee on each user at rates that:**

- 8 **(1) ensure full recovery of the amount needed for the board to**
9 **make distributions to PSAPs consistent with this chapter; and**
- 10 **(2) provide for proper development, operation, and**
11 **maintenance of a statewide 911 system.**

12 **The board may use a different formula or calculation to determine**
13 **the rate assessed on prepaid or standard users.**

14 **(b) The board may increase or decrease the statewide 911 fee**
15 **not more than two (2) times in a calendar year to ensure adequate**
16 **revenue for the board to fulfill its duties and obligations under this**
17 **chapter.**

18 **(c) An additional fee relating to the provision of 911 service may**
19 **not be levied by a state agency or local unit of government.**

20 **Sec. 35. (a) Except as provided in subsection (b), the statewide**
21 **911 fee assessed under section 34 of this chapter shall be collected**
22 **and remitted as follows:**

- 23 **(1) For standard users, as provided in section 36 of this**
24 **chapter.**
- 25 **(2) For prepaid users, as provided in section 37 of this**
26 **chapter.**

27 **(b) A user that is the federal government or an agency of the**
28 **federal government is exempt from the statewide 911 fee assessed**
29 **under section 34 of this chapter.**

30 **Sec. 36. (a) This section applies beginning July 1, 2011. As part**
31 **of its normal monthly billing process, a provider:**

- 32 **(1) shall collect the fee from each standard user having a place**
33 **of primary use in Indiana, as determined in the manner**
34 **provided by IC 6-8.1-15; and**
- 35 **(2) may list the fee as a separate line item on each bill.**

36 **If a provider receives a partial payment for a monthly bill from a**
37 **standard user, the provider shall apply the payment against the**
38 **amount the standard user owes to the provider before applying the**
39 **payment against the fee. A provider may not prorate the monthly**
40 **911 fee collected from a user.**

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1 **(b) Subject to subsection (c), a provider shall remit statewide**
 2 **911 fees collected under this section to the board at the time and in**
 3 **the manner prescribed by the board.**
 4 **(c) A provider may deduct and retain an amount not to exceed**
 5 **one percent (1%) of statewide 911 fees that the provider collects**
 6 **from standard users to reimburse the direct costs incurred by the**
 7 **provider in collecting and remitting statewide 911 fees.**
 8 **Sec. 37. (a) This section applies beginning July 1, 2011. A seller**
 9 **shall collect the statewide 911 fee from the prepaid user with**
 10 **respect to each retail transaction.**
 11 **(b) The seller shall disclose to the prepaid user the amount of**
 12 **the statewide 911 fee. The seller may separately state the amount**
 13 **of the statewide 911 fee on an invoice, a receipt, or a similar**
 14 **document that the seller provides to the prepaid user in connection**
 15 **with the retail transaction.**
 16 **(c) Subject to subsection (f), a seller shall remit statewide 911**
 17 **fees collected under this section to the board at the time and in the**
 18 **manner prescribed by the board.**
 19 **(d) The statewide 911 fee is the liability of the prepaid user and**
 20 **not of the seller. However, a seller is liable to remit to the board all**
 21 **prepaid 911 fees that the seller collects from prepaid users under**
 22 **this section, including all fees that the seller is considered to collect**
 23 **where the amount of the fee has not been separately stated on an**
 24 **invoice, receipt, or other similar document provided to the prepaid**
 25 **user by the seller.**
 26 **(e) A seller may deduct and retain an amount not to exceed one**
 27 **percent (1%) of statewide 911 fees that the seller collects from**
 28 **prepaid users to reimburse the direct costs incurred by the seller**
 29 **in collecting and remitting statewide 911 fees.**
 30 **(f) The board, in conjunction with the department of state**
 31 **revenue, shall establish procedures by which a seller may**
 32 **document that a sale of prepaid communications service is not a**
 33 **retail transaction.**
 34 **(g) A seller of prepaid communications service is not liable for**
 35 **damages to a person resulting from or incurred in connection with**
 36 **the following:**
 37 **(1) Providing or failing to provide 911 or wireless 911**
 38 **services.**
 39 **(2) Identifying or failing to identify the telephone number,**
 40 **address, location, or name associated with a person or device**
 41 **that accesses or attempts to access 911 or wireless 911 service.**

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

Sec. 38. (a) Subject to subsection (b), the board shall deposit all remitted statewide 911 fees in the fund.

(b) The board may deduct and retain an amount not to exceed one percent (1%) of remitted statewide 911 fees to reimburse the direct costs incurred by the board in administering the collection and remittance of statewide 911 fees.

Sec. 39. Collection of the statewide 911 fee is the liability of the seller or provider, as applicable. The seller or provider is liable to remit all statewide 911 fees collected from users, including all fees a seller is considered to collect if the amount of the fee has not been separately stated on an invoice, receipt, or other similar document provided to a prepaid user by a seller.

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

Sec. 41. The following are not required to take legal action to enforce the collection of the 911 fee for which a user is billed:

- (1) A provider.**
- (2) A seller.**

However, the board may initiate a collection action. A court finding for the board in the action may award reasonable costs and attorney fees associated with the collection action.

Sec. 42. The board shall administer the fund in the following manner:

- (1) The board may use two percent (2%) of the statewide 911 fees deposited in the fund to recover the board's expenses in administering this chapter. However, the board may increase or decrease this percentage to allow for full recovery of administration expenses.**
- (2) The board shall distribute the remainder of the statewide 911 fees deposited in the fund to each PSAP in an amount determined by the board. In determining a distribution under this subdivision, the board shall consider the following:**

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- 1 **(A) For a distribution during the fiscal year beginning July**
 2 **1, 2011, the amount of 911 fee revenue the PSAP received**
 3 **during the fiscal year ending June 30, 2011.**
 4 **(B) For a distribution during a fiscal year beginning after**
 5 **June 30, 2012, the costs incurred by the PSAP related to**
 6 **911 services provided by the PSAP during the immediately**
 7 **preceding fiscal year.**
 8 **The board may not distribute money in the fund in a manner that**
 9 **impairs the ability of the board to fulfill its management and**
 10 **administrative obligations under this chapter.**
 11 **Sec. 43. (a) A PSAP may use a distribution under section 42(2)**
 12 **of this chapter only for the following:**
 13 **(1) Expenses associated with communications service**
 14 **equipment located within the physical structure that houses**
 15 **a PSAP, including:**
 16 **(A) maintenance costs;**
 17 **(B) costs for the purchase of radio equipment; and**
 18 **(C) costs for the purchase or lease of telephone lines, fiber**
 19 **optic cables, or microwave links.**
 20 **(2) Necessary system hardware and software and data base**
 21 **equipment.**
 22 **(3) Personnel expenses, including wages, benefits, training,**
 23 **and continuing education.**
 24 **(4) Consumer education concerning 911 service.**
 25 **(5) Operational costs, including costs associated with:**
 26 **(A) utilities;**
 27 **(B) maintenance;**
 28 **(C) equipment designed to provide backup power or**
 29 **system redundancy, including generators; and**
 30 **(D) call logging equipment.**
 31 **(6) An emergency telephone notification system under section**
 32 **45 of this chapter.**
 33 **(7) Connectivity to the Indiana data communications system**
 34 **(IDACS).**
 35 **(8) Other expenses approved by the board.**
 36 **(b) A PSAP may not use a distribution under section 42(2) of**
 37 **this chapter for the following:**
 38 **(1) Construction, purchase, renovation, or furnishing of PSAP**
 39 **buildings.**
 40 **(2) Vehicles.**
 41 **(3) Mobile radio equipment.**
 42 **(4) Portable communications equipment.**

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(c) Beginning March 1, 2012, and not later than March 1 of each year thereafter, each PSAP shall submit to the board a report of all expenditures made during the immediately preceding calendar year from distributions under section 42(2) of this chapter.

(d) The state board of accounts annually shall audit the expenditures of distributions under section 42(2) of this chapter made during the immediately preceding calendar year by each PSAP that receives distributions under section 42(2) of this chapter. In conducting an audit under this subsection, the state board of accounts shall determine, in conjunction with the board, whether the expenditures made by each PSAP are in compliance with subsections (a) and (b).

(e) A distribution under section 42(2) of this chapter must be deposited by the treasurer of the county in which the PSAP is located in a separate fund set aside for the purposes allowed by subsections (a) and (b). The fund must be known as the _____ (insert name of county) 911 fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this subsection.

Sec. 44. (a) In cooperation with the board, a provider shall designate a person to coordinate with and provide all relevant information to the board to assist the board in carrying out its duties under this chapter.

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

Sec. 45. (a) As used in this section, "emergency telephone notification system" means an enhanced 911 system capability that provides service users within the territory served by a PSAP with a telephone warning of an emergency situation through a computerized warning system that uses 911 data base information and technology.

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

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

4 (d) Beginning July 1, 2011, a county may establish an emergency
 5 telephone notification system. A PSAP in the county may use funds
 6 distributed to it under section 42(2) of this chapter to establish and
 7 operate an emergency telephone notification system under this
 8 section.

9 (e) A service supplier shall provide to a PSAP the necessary
 10 subscriber or user data to enable the PSAP to implement an
 11 emergency telephone notification system under this section. The
 12 provision of data under this subsection is subject to section 46 of
 13 this chapter. In providing data under this subsection, the service
 14 supplier shall provide:

- 15 (1) the telephone number service address;
 16 (2) the class of service; and
 17 (3) a designation of listed, unlisted, or nonpublished;

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

22 Sec. 46. (a) A provider shall, upon request, provide to a PSAP
 23 the necessary subscriber or user data to enable the PSAP to
 24 implement and operate a 911 system. Subscriber or user data
 25 provided to a PSAP for the purpose of implementing or updating
 26 a 911 system may be used only to identify:

- 27 (1) a subscriber or user;
 28 (2) a subscriber's or user's place of primary use (as
 29 determined under IC 6-8.1-15); or
 30 (3) both subdivisions (1) and (2);

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

36 (b) After May 31, 1988, a contract entered into between a
 37 provider and a subscriber or user who has an unlisted or
 38 nonpublished telephone number may not include a provision that
 39 prohibits the provider from providing the subscriber's or user's
 40 telephone number to a PSAP for inclusion in a 911 system data
 41 base. A provider (other than a provider who before June 1, 1988,
 42 has contracted to not divulge a subscriber's or user's unlisted or

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1 nonpublished telephone number) shall provide a requesting PSAP
2 with the name, telephone number, and place of primary use (as
3 determined under IC 6-8.1-15) for each subscriber or user of the
4 provider. A PSAP may not release a telephone number required to
5 be provided under this subsection to any person except as provided
6 in subsection (a).

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

9 (1) the contract contains a provision that prohibits the
10 subscriber or user from providing the subscriber's or user's
11 telephone number to a PSAP for inclusion in a 911 system
12 data base;

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

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

19 Sec. 47. (a) All proprietary information submitted to the board
20 or the treasurer of state is confidential. Notwithstanding any other
21 law, proprietary information submitted under this chapter is not
22 subject to subpoena, and proprietary information submitted under
23 this chapter may not be released to a person other than to the
24 submitting provider without the permission of the submitting
25 provider.

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

31 Sec. 48. Notwithstanding any other law, the board, a PSAP, a
32 political subdivision, a provider, or an employee, director, officer,
33 or agent of a PSAP, a political subdivision, or a provider, or a
34 member of the board or the board chair or the executive director,
35 or an employee, agent, or representative of the board chair is not
36 liable for damages in a civil action or subject to criminal
37 prosecution resulting from death, injury, or loss to persons or
38 property incurred by any person in connection with establishing,
39 developing, implementing, maintaining, operating, and providing
40 911 service, except in the case of willful or wanton misconduct.

41 Sec. 49. A person may not use the 911 service except to make
42 emergency calls that may result in dispatch of the appropriate

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1 response for fire suppression and rescue, emergency medical or
2 ambulance services, hazardous material, disaster or major
3 emergency occurrences, and law enforcement activities.

4 **Sec. 50. (a) This section does not apply to a person that connects**
5 **to a 911 network using automatic crash notification technology**
6 **subject to an established protocol.**

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

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

10 **(2) provides through a prerecorded message information**
11 **regarding obtaining 911 emergency service.**

12 **(c) A person who knowingly or intentionally violates this section**
13 **commits a Class A misdemeanor.**

14 **Sec. 51. (a) A person who knowingly or intentionally places a**
15 **911 call:**

16 **(1) for a purpose other than obtaining public safety assistance**
17 **or emergency services; or**

18 **(2) to avoid communications service charges or fees;**

19 **commits a Class A misdemeanor.**

20 **(b) A person who knowingly or intentionally places repeated**
21 **nonemergency 911 calls commits a Class D felony if the repeated**
22 **nonemergency 911 calls result in a delayed response to an**
23 **emergency 911 call that results in injury or death.**

24 **(c) A person who knowingly or intentionally makes a false**
25 **request for public safety assistance or emergency services to a**
26 **PSAP through placement of a 911 call commits a Class D felony.**
27 **The offense is a Class C felony if an emergency services provider**
28 **suffers serious bodily injury in responding to the 911 call.**

29 **Sec. 52. (a) For purposes of this section, a PSAP includes a**
30 **public safety communications system operated and maintained**
31 **under IC 36-8-15.**

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

33 **(1) a political subdivision; or**

34 **(2) an agency;**

35 **that operates a PSAP. The term does not include a state**
36 **educational institution that operates a PSAP or an airport**
37 **authority established for a county having a consolidated city.**

38 **(c) Subject to subsection (d), after December 31, 2014, a county**
39 **may not contain more than two (2) PSAPs. However, a county may**
40 **contain one (1) or more PSAPs in addition to the number of PSAPs**
41 **authorized by this section, as long as any additional PSAPs are**
42 **operated by:**

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- 1 (1) a state educational institution; or
 2 (2) an airport authority established for a county having a
 3 consolidated city.
 4 (d) If, on March 15, 2008, a county does not contain more than
 5 one (1) PSAP, not including any PSAP operated by an entity
 6 described in subsection (c)(1) or (c)(2), an additional PSAP may not
 7 be established or operated in the county on or after March 15,
 8 2008, unless the additional PSAP is established and operated by:
 9 (1) a state educational institution;
 10 (2) in the case of a county having a consolidated city, an
 11 airport authority established for the county; or
 12 (3) the municipality having the largest population in the
 13 county or an agency of that municipality.
 14 (e) Before January 1, 2015, each PSAP operator in a county that
 15 contains more than the number of PSAPs authorized by subsection
 16 (c) shall enter into an interlocal agreement under IC 36-1-7 with
 17 every other PSAP operator in the county to ensure that the county
 18 does not contain more than the number of PSAPs authorized by
 19 subsection (c) after December 31, 2014.
 20 (f) An interlocal agreement required under subsection (e) may
 21 include as parties, in addition to the PSAP operators required to
 22 enter into the interlocal agreement under subsection (e), any of the
 23 following that seek to be served by a county's authorized PSAPs
 24 after December 31, 2014:
 25 (1) Other counties contiguous to the county.
 26 (2) Other political subdivisions in a county contiguous to the
 27 county.
 28 (3) Other PSAP operators in a county contiguous to the
 29 county.
 30 (g) An interlocal agreement required under subsection (e) must
 31 provide for the following:
 32 (1) A plan for the:
 33 (A) consolidation;
 34 (B) reorganization; or
 35 (C) elimination;
 36 of one (1) or more of the county's PSAPs, as necessary to
 37 ensure that the county does not contain more than the number
 38 of PSAPs authorized by subsection (c) after December 31,
 39 2014.
 40 (2) A plan for funding and staffing the PSAP or PSAPs that
 41 will serve:
 42 (A) the county; and

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- 1 **(B) any areas contiguous to the county, if additional parties**
- 2 **described in subsection (f) participate in the interlocal**
- 3 **agreement;**
- 4 **after December 31, 2014.**
- 5 **(3) Subject to any applicable state or federal requirements,**
- 6 **protocol to be followed by the county's PSAP or PSAPs in:**
- 7 **(A) receiving incoming 911 calls; and**
- 8 **(B) dispatching appropriate public safety agencies to**
- 9 **respond to the calls;**
- 10 **after December 31, 2014.**
- 11 **(4) Any other matters that the participating PSAP operators**
- 12 **or parties described in subsection (f), if any, determine are**
- 13 **necessary to ensure that the county does not contain more**
- 14 **than the number of PSAPs authorized by subsection (c) after**
- 15 **December 31, 2014.**

16 **(h) This section may not be construed to require a county to**
 17 **contain a PSAP.**

18 SECTION 27. IC 36-9-13-3.5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.5. As used in this
 20 chapter, "system" means any of the following:

- 21 (1) A computer (as defined in IC 36-8-15-4) **(before its**
- 22 **expiration on July 1, 2014).**
- 23 (2) A communications system (as defined in IC 36-8-15-3(1))
- 24 **(before its expiration on July 1, 2014).**
- 25 (3) Mobile or remote equipment that is coordinated by or linked
- 26 with a computer or communication system.
- 27 (4) Upon the request of:
- 28 (A) the fiscal body of an eligible entity having a fiscal body;
- 29 or
- 30 (B) the governing body of an eligible entity not having a fiscal
- 31 body;

32 security services provided by human or nonhuman means.

33 SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE
 34 JULY 1, 2010]: IC 36-8-16.5-18; IC 36-8-21.

35 SECTION 29. [EFFECTIVE JULY 1, 2010] **(a) As used in this**
 36 **SECTION, "board" refers to the statewide 911 board established**
 37 **by IC 36-8-16.6-26, as added by this act.**

38 **(b) The funds that remain in the wireless emergency telephone**
 39 **system fund established by IC 36-8-16.5-21 (before its expiration**
 40 **on July 1, 2011) on July 1, 2011, shall be transferred to the**
 41 **statewide 911 fund established by IC 36-8-16.6-31, as added by this**
 42 **act.**

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1 **(c) This SECTION expires January 1, 2012.**

2 SECTION 30. [EFFECTIVE JULY 1, 2010] (a) The funds that
3 remain in a county's wireless emergency telephone system fund
4 established by IC 36-8-16.5-43 (before its expiration on July 1,
5 2011) on July 1, 2011, shall be transferred to the county's 911 fund
6 established under IC 36-8-16.6-43(e), as added by this act. Any
7 funds transferred under this SECTION shall be used as follows:

8 (1) To pay any obligations owed to any bondholders, third
9 parties, or creditors under IC 36-8-16.5 (before its expiration
10 on July 1, 2010).

11 (2) To the extent any funds remain after meeting the
12 obligations described in subdivision (1), for the purposes set
13 forth in IC 36-8-16.6-43, as added by this act.

14 **(b) This SECTION expires January 1, 2012.**

15 SECTION 31. [EFFECTIVE JULY 1, 2010] (a) The funds that
16 remain in an emergency telephone system fund established by a
17 county under IC 36-8-16-13 (before its expiration on July 1, 2011)
18 on July 1, 2011, shall be transferred to the county's 911 fund
19 established under IC 36-8-16.6-43(e), as added by this act. Any
20 funds transferred under this subsection shall be used as follows:

21 (1) To pay any obligations owed to any bondholders, third
22 parties, or creditors under IC 36-8-16 (before its expiration on
23 July 1, 2010).

24 (2) To the extent any funds remain after meeting the
25 obligations described in subdivision (1), for the purposes set
26 forth in IC 36-8-16.6-43, as added by this act.

27 **(b) The funds that remain in an emergency telephone system
28 fund established by a municipality under IC 36-8-16-13 (before its
29 expiration on July 1, 2011) on July 1, 2011, shall be transferred to
30 the 911 fund established under IC 36-8-16.6-43(e), as added by this
31 act, for the county in which the municipality is located. Any funds
32 transferred under this subsection shall be used as follows:**

33 (1) To pay any obligations owed by the municipality to any
34 bondholders, third parties, or creditors under IC 36-8-16
35 (before its expiration on July 1, 2010).

36 (2) To the extent any funds remain after meeting the
37 obligations described in subdivision (1), for the purposes set
38 forth in IC 36-8-16.6-43, as added by this act.

39 **(c) This SECTION expires January 1, 2012.**

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