

January 31, 2011

The Honorable Pat Apple, Chairperson  
Senate Committee on Utilities  
Statehouse, Room 224-E  
Topeka, Kansas 66612

Dear Senator Apple:

SUBJECT: Fiscal Note for SB 50 by Senate Committee on Utilities

In accordance with KSA 75-3715a, the following fiscal note concerning SB 50 is respectfully submitted to your committee.

SB 50 would be known as the Kansas 911 Act and would take effect on January 1, 2012. The bill would create a 911 Coordinating Council. The Council would monitor the delivery of 911 services, develop enhancement strategies for the 911 system, and distribute grant funds. The Council would consist of 12 voting members and 10 non-voting members that would be appointed by the Governor. The Governor would designate one of the voting members as the chair. The bill details the terms of office for the voting and non-voting members. SB 50 authorizes the Council to adopt rules and regulations to accomplish the provisions of the Act, which includes raising and lowering the 911 fee within a set range. The Council would select the local collection point administrator (LCPA) to collect the 911 fees and distribute the fees to the public safety answering points (PSAP) and the state grant fund as directed by the Council. The expenses of the Council would be paid from the 911 State Grant Fund and could be no more than 2.0 percent of the total receipts. The Council would be reimbursed for travel expenses and meals, but would serve without compensation. The Council would also be authorized to impose civil penalties on providers that are acting in bad faith in failing to comply with the provisions of the Act. The bill also details additional responsibilities of the Council.

The Council would submit three nominees for the position of Statewide 911 Coordinator to the Governor. The Governor would select the Coordinator from the nominees and set the position's compensation and serve at the pleasure of the Governor. The Coordinator would serve as the coordinator of emergency 911 services and next generation 911 services, implement statewide 911 planning, have the authority to sign certificates required under federal law, and administer the 911 Federal Grant Fund. The bill details other responsibilities of the Coordinator.

The bill establishes the 911 Federal Grant Fund within the state treasury and makes the Statewide 911 Coordinator the administrator of the fund. The Coordinator would distribute the funds based on the recommendations of the Council. SB 50 would require the Council to select the LCPA. The bill limits the agreement between the Council and LCPA to a one-year maximum and the agreement would be reviewed annually before a new agreement would be set.

Upon advice and consent, the LCPA would establish the 911 State Fund and 911 State Grant Fund outside of the state treasury. After the effective date of this Act, the Secretary of Administration would certify the sources of the money contained in the current Wireless Enhanced 911 Grant Fund and transfer all funds from the state fee source to the 911 State Grant Fund and all funds from the federal sources to the 911 Federal Grant Fund.

The bill establishes a \$0.55 per month fee per subscriber account of any land line, wireless device, voice over internet protocol (VoIP) service, or any other service capable of contacting a PSAP. The fee would not be charged on prepaid wireless service. The providers of these services would be required to remit the 911 fees collected and file a return to the LCPA within 15 days after the end of the month in which the fee was received. In addition, the providers could retain an administrative fee of no more than 2.0 percent on the fee collected. For prepaid wireless service, the bill imposes a 1.1 percent per retail transaction fee. The amount of the fee would be stated separately on the invoice or receipt. The bill requires the seller to send the prepaid wireless fees to the Department of Revenue. The Department would be authorized to audit sellers and share the information with the LCPA if the seller is not complying with the provisions of this bill. The Department may also initiate collection if efforts by the LCPA to collect are unsuccessful. The Department would send all prepaid wireless 911 fees to the LCPA within 30 days of receipt. The Department can retain up to 1.0 percent of the fees collected for administrative use and up to \$70,000 in FY 2012 to pay for programming and other one-time costs for establishing a collection system.

SB 50 establishes a sliding scale for the distribution of the 911 fees for non-prepaid wireless to PSAPs. All monies remaining after distribution to the PSAPs, as well as any money that cannot be attributed to a specific PSAP, would be transferred to the 911 State Grant Fund and would be treated as public funds pursuant to the banking code for deposit of public funds. Monies from the prepaid wireless fee would be deposited in the 911 State Grant Fund. If more than \$2.0 million is collected then any amount above \$2.0 million would be distributed to the PSAPs based on the sliding scale method.

The monies collected from the 911 fees, including interest earned from the fees, can be spent only for necessary and reasonable costs incurred by the PSAPs. The bill details the acceptable and non-acceptable costs. SB 50 provides immunity from liability to the LCPA, each provider and seller, as well as their employees, for any damages resulting from the failure of any transmission to any emergency communication service or for damages resulting from the performance of installing, maintaining or providing 911 service.

The receipts and disbursements of the LCPA would be required to be audited yearly by a licensed municipal accountant or certified public accountant. The LCPA can require an audit of any provider's books and records concerning collection and remittance of the fee collected under this act. The cost of the audit would be paid from the 911 State Grant Fund. The bill also requires that on or before December 31, 2013, and at least once every three years thereafter, the Division of Post Audit would conduct an audit of the 911 system. The audit would be submitted to the 911 Coordinating Council, the LCPA, the House Energy and Utilities Committee, and the Senate Utilities Committee. The Division would be reimbursed for reasonable costs from the 911 State Grant Fund. The Legislature would be required to review this Act during the 2014 Legislative Session and every five years after.

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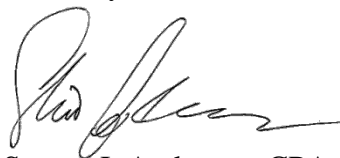
SB 50 does not limit the ability of a provider to recover its costs associated with designing, developing, deploying, and maintaining 911 service, as well as its cost of collection and administration of 911 fees, from its customers. The bill also requires a provider of wireless service to receive prior approval of the PSAP before directing emergency calls to that PSAP and to establish the emergency telephone number “911” across the state. The governing body of every city and county would be required to provide or contract for 24-hour receipt of wireless emergency calls for all wireless service areas within such city or county.

SB 50 also extends the sunset of the Wireless Enhanced 911 Grant Fee to January 1, 2012, and directs any unobligated balance in the fund existing on January 1, 2012, to be distributed by the Secretary of Administration. In addition, the bill extends the sunset of the VoIP Enhanced 911 Grant Fee Fund until January 1, 2012. The bill creates an exception to open records for information provided to the LCPA or the 911 Coordinating Council under this act upon request of the party submitting the records. Finally, the bill allows the Secretary of Revenue to provide information concerning remittance of prepaid wireless fees by sellers to the LCPA in order to verify compliance.

The Department of Revenue estimates the start-up costs for developing a fee processing system would be \$70,000, including programming and system changes to accommodate the new fee. This amount would be paid with 911 fees collected in FY 2012; the bill allows the Department to retain up to \$70,000 to pay for programming and other one-time system set up costs. The Department believes retaining 1.0 percent of the 911 fees collected, as provided in the bill and projected to be \$20,000, would pay for any administrative expenses created by the passage of SB 50.

The League of Kansas Municipalities indicates that passage of this bill will have a fiscal effect on cities. However, based on the changes made in the bill and the amount of data that would have to be collected and reviewed, a precise fiscal effect to cities cannot be determined. The Governor’s Grants Office which administers these funds currently would presumably no longer administer them. This function was planned to be moved to the Attorney General’s Office in FY 2012, which would not need to occur if this bill passed.

Sincerely,



Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Steve Neske, Revenue  
Meagan Pinegar, Attorney General’s Office  
Mary Rinehart, Judiciary  
Melissa Wangemann, KS Association of Counties

Pat Higgins, Administration  
Rick Riggs, Post Audit  
Larry Baer, League of KS Municipalities