

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on March 4, 2004 in Room 123-S of the Capitol.

All members were present except:
Senator David Kerr- absent

Committee staff present:
Susan Kannarr, Legislative Research
Helen Pedigo, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:
Mary Galligan, Legislative Research
Kim Gulley, League of Kansas Municipalities
Julie Moler, Kansas Association of Counties
Danielle Noe, Johnson County Board of Commissioners
John Pinegar, KLPG
Diane M. Gage, Director, Sedgwick County Dept. of Emergency Communications
Amy Yarkoni, Cingular and other Wireless Service providers

Others attending:
See Attached List.

Chairperson Brownlee opened the:

Informational hearing on e-911

Mary Galligan presented the committee with an overview of "Comparison of Selected Wireless e-911 Bills before the 2004 Legislature." ([Attachment 1](#))

Ms. Galligan also presented the committee with "National and State Population Estimates and Estimated Components of Change 7/1/2003 Source: Population estimates Branch, U.S. Bureau of the Census". ([Attachment 2](#))

Ms. Galligan compared the bill by several criteria, including: PSAP (Public Safety Answering Point) financing, Wireless e-911 Tax or wireless e-911 local fee, administration of tax or local fee, allowable use of tax or local fee revenue, e-911 fee or e-911 grant fee, grant fund, use of grant fund revenue, general administration, advisory board, annual plan, PSAP responsibility for timely implementation of wireless e-911, tax and fee collection, accountability, public access to records, limitation of liability, recovery of carrier's costs, accurate coverage, and notice of waiver request.

Ms. Galligan asked the committee for questions.

Chair Brownlee explained that the reason for the hearing on the bill was so that the committee members would have an idea of what was in the conference committee and so that when it was discussed on the floor, they would be informed.

Senator Bunten stated that he had two questions; would local fees be remitted to the League of Municipalities and counties? He stated that this sounded strange as they were private organizations, as he understood them. Senator Steineger stated that he did not think this was strange, but that he did not think the organizations were private. Ms. Galligan stated that the two entities were mandated by statutes, however, cities and counties pay membership dues. Senator Bunten stated that it seemed strange to him that these funds, or taxes, are remitted to these organizations. He questioned whether the Secretary of Administration really has the expertise to regulate this.

Chairperson Brownlee stated that the KCC was not selected as the regulatory agency because wireless carriers

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are under the FCC, and these wireless companies are quite sensitive about being placed under the KCC. She stated that since the Department of Administration oversees DISC, the Division of Information Systems and Communications, wireless regulations might be a comparable situation..

Ms. Galligan stated that there has been some concern that if those funds, dubbed taxes at the time, were remitted to the state, as opposed to the municipalities, the funds might be diverted to other things. She stated that there had been several examples of other states in which E-911 funds were diverted in this way for other things when times got bad, and this legislation was trying to avoid those situations in Kansas. Ms. Galligan stated that, despite this, it is rare for funds collected for a public purpose not to be remitted to the state.

Ms. Gulley provided the committee with testimony in favor of the bill. (Attachment 3) In response to Ms. Galligan, Ms. Gulley stated that the League would prefer that the local part of payment go straight back to local communities. She stated that the language was the result of a compromise reached at the time was so that the wireless companies could cut one check and then have the League and the KAC deal with distributing the money on to local areas. She stated that both the League and KAC are government organizations, but in this role, they were only seeking to ensure that monies do not get diverted to other places. She stated that this is the last remaining step to having E-911 in Kansas. Ms. Gulley explained that federal guidelines have already been passed, but that Kansas needs local PSAPs to have the ability to make valid requests from providers. She stated that they understand that over time it will be important to make sure that the process is monitored, but this was a first and necessary step.

Senator Buntun asked Ms. Gulley if the League expects a fee from the State, and she replied that the bill provides for an administrative fee up to 2%. She stated that since this is money that her organization is sending back to its own cities and counties, those cities and counties would be the first to come after them if there was any question about where the money was going.

Ms. Moler presented testimony in favor of the bill. (Attachment 4) She state that there are two basic tenets being discussed on p.3. She stated that while the KAC did not think that cost recovery should come from this means, they were also nervous about the state having the money and using it for other, unrelated purposes.

Ms. Noe presented testimony in favor of the bill. (Attachment 5) She stated that on p.3, the bill referred to implementation over a series of 2-3 years, and that all counties were participating in the Mid-America Regional Council, and were therefore able to see the actual cost. She stated that there was a big difference in the current version date of the sunset, and that she would caution the committee not to roll that date back too soon in order to give adequate time to set up the collection process, including the collection of revenue to make grants and to allow people time to apply for them. She stated that there will need to be an opportunity to build that system.

Chairperson Brownlee stated that even though Johnson county has already built out, they are still supportive of creating a state-wide system.

Ms. Noe stated that her organization believes there has to be an ability to create a state-wide system that would not only service large urban areas; this system would help to make everyone feel comfortable that they can receive those services if they need them.

John Pinegar, KLPG, provided testimony in favor of the bill. (Attachment 6) He stated that he represents over 30 Western counties, and, because these areas are more rural, it is very important to his customers that they be able to be located all over the state. He stated that the KLPG especially appreciated a grant fund that would allow rural areas to be able to set up this system

Ms. Gage provided testimony in favor of the bill with suggested changes. (Attachment 7)

Ms. Yarkoni, speaking on behalf of Cingular and other wireless providers, presented testimony in opposition to the bill. (Attachment 8) She also provided the committee with a copy of the Cingular website's "Description of what is included in the Regulatory Cost Recovery Fee". (Attachment 9) She stated that she was speaking on behalf of about 90% of all wireless providers in Kansas. She stated that the companies she represented were all interested in the bill and concerned with public safety, and that all parties involved would

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like to see the legislature pass a bill. She stated that the concerns outlined in her testimony included their belief that 50 cents was sufficient to implement the system, that there is a need to include cost of recovery in the bill, and if cost of recovery was not included, it should be reduced.

Ms. Yarkoni stated that 75% will hit the five largest counties in the state, and that once the rest was divided among the rest of the counties, it would be very thinly spread. She stated that they believe that one state-wide fund would be better. Additionally, she stated that if the fee is reduced, her organization would like to see that on the customer's bill with a clarification of what the fee actually goes toward.

Ms. Yarkoni also stated the fee's use would need further clarification on their billing statements to avoid customer confusion over their bills. She stated that while customers are familiar with some additional charges, they might not understand to what service the fee applies. Also, she stated that they want to make sure the fees are actually applied to e-911 related services and not to non-wireless side improvements or other expenses. She emphasized that they would rather see a state-wide fee; Cingular currently charges 28 cents or 61 cents cover 911 service, and Cingular states on their website that if there is a state wide fee, the fee currently in existence will be reduced.

Ms. Yarkoni stated that they would like to see a sunset date of 2010 because there is no justification to set an increase planned for 6 years from now; there would be no way to assess that without knowing the cost of deployment at that time. She then offered to answer committee questions.

Senator Barone asked for whom she was speaking when talking about recovering fees. Ms. Yarkoni stated that she was speaking for many companies, and most specifically Cingular.

Senator Barone asked if she would be able to present the committee with a list of those for whom she was speaking and provide information on whether or not each of those companies recover fees and if so, how.

Ms. Yarkoni stated that she would not be able to provide Senator Barone with that information because it would be an anti-trust issue.

Staff provided the committee with PSAP information (Attachment 10) and a fiscal note for the bill. (Attachment 11)

Chairperson Brownlee adjourned the meeting at 9:30 a.m. The next meeting will be at 8:00 a.m. on March 5, 2004 in Room 123-S of the Capitol.