

## **IC 36-8-16.5**

### Chapter 16.5. Enhanced Wireless Emergency Telephone Service

#### **IC 36-8-16.5-1**

##### **"APCO" defined**

Sec. 1. As used in this chapter, "APCO" refers to the Indiana chapter of the Association of Public Safety Communication Officials International.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-2**

##### **"Automatic location identification" defined**

Sec. 2. As used in this chapter, "automatic location identification" means a wireless enhanced 911 service capability that provides pseudo-automatic number identification that can be used to identify a specific cell site transmitting a 911 call.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-3**

##### **"Automatic number identification" defined**

Sec. 3. As used in this chapter, "automatic number identification" means a wireless enhanced 911 service capability that enables the transmission of the ten (10) digit mobile handset telephone number used to place a 911 call.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-4**

##### **"Board" defined**

Sec. 4. As used in this chapter, "board" refers to the wireless enhanced 911 advisory board established by section 18 of this chapter.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-5**

##### **"CMRS" defined**

Sec. 5. As used in this chapter, "CMRS" refers to the commercial mobile radio service (as defined by 47 U.S.C. 332(d)(1)). The term includes the following:

- (1) Services commonly referred to as wireless.
- (2) Services provided by a wireless real time two-way voice communication device, including radio-telephone communications used in:
  - (A) cellular telephone service;
  - (B) personal communications service; or
  - (C) the functional or competitive equivalent of a radio-telephone communications line used in:
    - (i) cellular telephone service;
    - (ii) a personal communications service; or
    - (iii) a network radio access line.
- (3) Any other wireless service that provides the user with direct

access to a PSAP through the placement of a 911 call.  
*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.1.*

**IC 36-8-16.5-6**

**"CMRS provider" defined**

Sec. 6. As used in this chapter, "CMRS provider" refers to a person or entity that provides CMRS service. The term includes facilities based and nonfacilities based resellers.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-7**

**"FCC order" defined**

Sec. 7. As used in this chapter, "FCC order" refers to the order of the Federal Communications Commission, FCC Docket No. 94-102, adopted June 12, 1996, with an effective date of October 1, 1996.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-8**

**"Fund" defined**

Sec. 8. As used in this chapter, "fund" refers to the wireless emergency telephone system fund established under section 21(a) of this chapter.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-9**

**"Mobile telephone number" defined**

Sec. 9. As used in this chapter, "mobile telephone number" means the ten (10) digit number assigned to a CMRS mobile phone.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-10**

**"NENA" defined**

Sec. 10. As used in this chapter, "NENA" refers to the Indiana chapter of the National Emergency Number Association.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-11**

**"Population" defined**

Sec. 11. As used in this chapter, "population" means the population as reported by the most recent official United States census.

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-12**

**"Proprietary information" defined**

Sec. 12. As used in this chapter, "proprietary information" includes the following:

- (1) Customer lists and related information.
- (2) Technology descriptions, technical information, or trade secrets (as defined by IC 24-2-3-2).

(3) Information concerning the actual or developmental costs of wireless enhanced 911 systems that are developed, produced, or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers, or agents.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-13**

##### **"PSAP" defined**

Sec. 13. As used in this chapter, "PSAP" refers to the public safety answering point that is the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-14**

##### **Repealed**

*(Repealed by P.L.113-2010, SEC.169.)*

#### **IC 36-8-16.5-14.5**

##### **"Prepaid user"**

Sec. 14.5. As used in this chapter, "prepaid user" has the meaning set forth in IC 36-8-16.6-6.

*As added by P.L.16-2002, SEC.3. Amended by P.L.113-2010, SEC.139.*

#### **IC 36-8-16.5-14.7**

##### **"Standard user"**

Sec. 14.7. As used in this chapter, "standard user" or "user" refers to a CMRS user who pays retrospectively for the service and has an Indiana billing address for the service.

*As added by P.L.16-2002, SEC.4. Amended by P.L.113-2010, SEC.140.*

#### **IC 36-8-16.5-15**

##### **Repealed**

*(Repealed by P.L.146-2005, SEC.8.)*

#### **IC 36-8-16.5-16**

##### **"Wireless 911" defined**

Sec. 16. As used in this chapter, "wireless 911" means an emergency telephone system that:

- (1) provides a CMRS user with the ability to reach emergency services by dialing the digits nine (9) one (1) one (1); and
- (2) is complimentary to a wireline enhanced emergency telephone system (as defined in IC 36-8-16-2).

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-17**

##### **Repealed**

*(Repealed by P.L.16-2002, SEC.21.)*

**IC 36-8-16.5-18****Wireless enhanced 911 advisory board; establishment; members; voting**

Sec. 18. (a) The wireless enhanced 911 advisory board is established. The board is a body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

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

(1) The executive committees of NENA and APCO shall jointly recommend three (3) individuals.

(2) The CMRS providers authorized to provide CMRS in Indiana shall jointly recommend three (3) individuals.

(c) The board consists of the following seven (7) members:

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

(2) Three (3) members for a term of three (3) years who are appointed by the governor after the governor considers the recommendations of the executive committees of NENA and APCO that are submitted under subsection (b)(1).

(3) Three (3) members for a term of three (3) years who are appointed by the governor after considering the recommendations of the CMRS providers that are submitted under subsection (b)(2).

(d) A member's position may be filled by the member's designee who serves at the pleasure of the member.

(e) A vacancy on the board is filled for the vacating member's unexpired term in the same manner as the original appointment.

(f) Each member appointed under subsection (c)(2) or (c)(3) shall submit the name of a designee to the board. The board shall maintain a list of approved designees. A member appointed under subsection (c)(2) or (c)(3) may appoint a listed designee to fill the member's position under subsection (d) or to act on behalf of the member at a meeting of the board. The designee serves at the pleasure of the appointing member.

(g) A member may vote by proxy through another member.

*As added by P.L. 98-1998, SEC.1. Amended by P.L. 16-2002, SEC.5.*

**IC 36-8-16.5-19****Wireless enhanced 911 advisory board; quorum**

Sec. 19. A majority of the members of the board constitutes a quorum for purposes of taking action. Except as provided in section 39(b) of this chapter, the board may take action approved by a majority of the members of the board present at a meeting of the board.

*As added by P.L. 98-1998, SEC.1. Amended by P.L. 116-2000, SEC.2;*

*P.L.16-2002, SEC.6.*

**IC 36-8-16.5-20**

**Wireless enhanced 911 advisory board; salary and expenses of members**

Sec. 20. (a) Each member of the board who is not a state employee is not entitled to receive the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

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

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-21**

**Wireless emergency telephone system fund; establishment; expenses**

Sec. 21. (a) The wireless emergency telephone system fund is established for the purpose of creating and maintaining an enhanced wireless 911 system.

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

*As added by P.L.98-1998, SEC.1.*

**IC 36-8-16.5-22**

**Wireless emergency telephone system fund; contents**

Sec. 22. The fund consists of the following:

- (1) Service charges assessed on CMRS users in the state under section 25.5 of this chapter.
- (2) Appropriations made by the general assembly.
- (3) Grants and gifts intended for deposit in the fund.
- (4) Interest, premiums, gains, or other earnings on the fund.
- (5) Enhanced prepaid wireless charges collected and remitted under IC 36-8-16.6-12.

*As added by P.L.98-1998, SEC.1. Amended by P.L.60-2003, SEC.1; P.L.113-2010, SEC.141.*

**IC 36-8-16.5-23**

**Wireless emergency telephone system fund; investment of money**

Sec. 23. (a) The board may invest money in the fund in the same manner as other funds of the state may be invested under IC 5-13. In addition, the board may invest money in the fund in any of the following:

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

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

(B) The board shall establish minimum quality rating standards and maximum purchase amount standards for corporate issues.

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

(A) These investments must be:

(i) Prime-1 commercial paper; and

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

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

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

*As added by P.L.98-1998, SEC.1. Amended by P.L.60-2003, SEC.2.*

#### **IC 36-8-16.5-24**

##### **Biennial audit of fund and review of wireless 911 service**

Sec. 24. (a) The board shall select a third party to audit the fund every two (2) years to determine whether the fund is being managed in accordance with this chapter. The board shall pay for an audit by the third party auditor as an administrative cost of the board.

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

(1) do not exceed the amount reasonably necessary to provide adequate and efficient wireless 911 service; and

(2) are used only for the purposes set forth in this chapter.

The board shall adopt a review conducted under this subsection.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.7; P.L.146-2005, SEC.1.*

#### **IC 36-8-16.5-25**

##### **Repealed**

*(Repealed by P.L.60-2003, SEC.6.)*

#### **IC 36-8-16.5-25.5**

##### **Wireless emergency enhanced 911 fee; assessment**

Sec. 25.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, the board shall assess a monthly wireless emergency enhanced 911 fee on each

standard user that is a customer having a place of primary use in Indiana. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15.

(c) The fee assessed under subsection (b) does not apply to a prepaid user in a retail transaction under IC 36-8-16.6.

*As added by P.L.60-2003, SEC.3. Amended by P.L.113-2010, SEC.142.*

#### **IC 36-8-16.5-26**

##### **Wireless emergency enhanced 911 fee; adjustment; rates; reduction after CMRS providers reimbursed**

Sec. 26. (a) The board may adjust the wireless emergency enhanced 911 fee that is assessed under section 25.5 of this chapter. The board shall assess the fee at rates that ensure full recovery over a reasonable period of time of:

- (1) costs incurred by CMRS providers before July 1, 2005; and
- (2) the amount needed for the board to make distributions to PSAPs consistent with this chapter;

to develop and maintain an enhanced wireless 911 system.

(b) The fee assessed under section 25.5 of this chapter may not:

- (1) be raised or lowered more than one (1) time in a calendar year;
- (2) be raised more than seven cents (\$0.07) by an adjustment; or
- (3) exceed one dollar (\$1) per month for each telephone number.

(c) If:

- (1) all CMRS providers have been reimbursed for their costs as provided in section 39(c) of this chapter; and
- (2) the fee assessed under section 25.5 of this chapter is greater than fifty cents (\$0.50);

the board shall reduce the fee so that the fee is not more than fifty cents (\$0.50). A reduction of the fee under this subsection is not to be considered an adjustment under subsection (a).

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.9; P.L.60-2003, SEC.4; P.L.146-2005, SEC.2.*

#### **IC 36-8-16.5-27**

##### **Retaining independent accounting firm**

Sec. 27. The board may retain an independent, third party accounting firm for purposes of processing checks and distributing funds as directed by the board and as allowed by this chapter.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-28**

##### **Implementation powers**

Sec. 28. (a) The board may do the following to implement this chapter:

- (1) Enter into contracts, including contracts:
  - (A) for professional services;

- (B) for purchase of supplies or services; and
- (C) to acquire office space.
- (2) Hire staff.
- (3) Adopt rules under IC 4-22-2.
- (4) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-29**

##### **Additional fees by state agencies or local governments prohibited**

Sec. 29. An additional fee relating to the provision of wireless 911 service may not be levied by a state agency or local unit of government. An enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not considered an additional fee relating to the provision of wireless 911 service for purposes of this section.

*As added by P.L.98-1998, SEC.1. Amended by P.L.113-2010, SEC.143.*

#### **IC 36-8-16.5-30**

##### **Repealed**

*(Repealed by P.L.60-2003, SEC.6.)*

#### **IC 36-8-16.5-30.5**

##### **Wireless emergency enhanced 911 fee; CMRS providers billing; remittance of fees collected**

Sec. 30.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, a CMRS provider shall, as part of its normal monthly billing process, collect the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter from each standard user that is a customer having a place of primary use in Indiana and may list the fee as a separate line item on each bill. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15. If a CMRS provider receives a partial payment for a monthly bill from a CMRS standard user, the CMRS provider shall apply the payment against the amount the CMRS standard user owes to the CMRS provider before applying the payment against the fee.

(c) This subsection applies only if IC 36-8-16.6 expires and sunsets under the conditions set forth in IC 36-8-16.6-22. A CMRS provider shall collect and remit to the board under section 36 of this chapter fees from its prepaid users in a total amount equal to the fee amount multiplied by the number of active prepaid user accounts on the last day of each calendar month.

*As added by P.L.60-2003, SEC.5. Amended by P.L.113-2010, SEC.144.*

#### **IC 36-8-16.5-31**

##### **Wireless emergency enhanced 911 fee; CMRS providers billing; proration prohibited**

Sec. 31. A CMRS provider, as part of its monthly billing process, may not pro-rate the monthly wireless emergency enhanced 911 fee collected from a standard user.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.10; P.L.113-2010, SEC.145.*

#### **IC 36-8-16.5-32**

##### **Wireless emergency enhanced 911 fee; collection actions**

Sec. 32. A CMRS provider is not required to take legal action to enforce the collection of the wireless emergency enhanced 911 fee for which a user is billed. However, a collection action may be initiated by the board. A court finding for the board in the action may award reasonable costs and attorney's fees associated with the collection action.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.11; P.L.113-2010, SEC.146.*

#### **IC 36-8-16.5-33**

##### **Wireless emergency enhanced 911 fee; tax exemption**

Sec. 33. The wireless emergency enhanced 911 fee is exempt from state and local taxation.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.12.*

#### **IC 36-8-16.5-34**

##### **Wireless emergency enhanced 911 fee; exempt CMRS numbers**

Sec. 34. A CMRS number is exempt from the wireless emergency enhanced 911 fee if the user is any of the following:

- (1) The federal government or an agency of the federal government.
- (2) The state or an agency or instrumentality of the state.
- (3) A political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.13; P.L.113-2010, SEC.147.*

#### **IC 36-8-16.5-35**

##### **Wireless emergency enhanced 911 fee; retention of administrative costs by CMRS providers**

Sec. 35. A CMRS provider may keep seven tenths of a cent (\$0.007) of the wireless emergency enhanced 911 fee collected each month from each user for the purpose of defraying the administrative costs of collecting the fee.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.14; P.L.146-2005, SEC.3; P.L.113-2010, SEC.148.*

#### **IC 36-8-16.5-36**

##### **Wireless emergency enhanced 911 fee; CMRS providers billing; remittance to board**

Sec. 36. A fee collected by a CMRS provider under this chapter, less the administrative fee described in section 35 of this chapter,

must be remitted to the board for deposit into the fund not more than sixty (60) days after the end of the calendar month in which the fee is collected.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-37**

##### **Wireless emergency telephone system fund; recovery of implementation costs by CMRS providers; invoicing of costs required**

Sec. 37. Except as provided in section 35 of this chapter, a CMRS provider may recover from the fund all of its costs incurred before July 1, 2005, to implement enhanced wireless 911 service. To be recovered from the fund, the costs must be invoiced to the board as required by section 42 of this chapter.

*As added by P.L.98-1998, SEC.1. Amended by P.L.146-2005, SEC.4.*

#### **IC 36-8-16.5-38**

##### **Wireless emergency telephone system fund; CMRS providers recovering implementation costs; cost recovery plan**

Sec. 38. To recover costs under section 37 of this chapter, a CMRS provider must submit a full, sworn, true, complete, and detailed cost recovery plan. The board must approve the plan before the CMRS provider may recover costs from the fund under section 37 of this chapter.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.15.*

#### **IC 36-8-16.5-39**

##### **Wireless emergency telephone system fund; management, distributions, and transfers; management after reimbursement of CMRS providers and reduction of fee**

Sec. 39. (a) Except as provided by section 26 of this chapter and subsections (b) and (c), the fund must be managed in the following manner:

(1) Three cents (\$0.03) of the wireless emergency 911 fee collected from each user must be deposited in an escrow account to be used to reimburse:

(A) CMRS providers, PSAPs, and the board for costs associated with implementation of phase two (2) of the FCC order; and

(B) the board for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by CMRS providers or PSAPs.

A CMRS provider or a PSAP may recover costs under this chapter if the costs are incurred before July 1, 2005, and invoiced to the board not later than December 31, 2005. 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 to reimburse CMRS providers and PSAPs under this subdivision.

(2) At least twenty-five cents (\$0.25) of the wireless emergency 911 fee collected from each user must be deposited in an escrow account and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers before July 1, 2005, in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. 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 to reimburse CMRS providers under this subdivision. The CMRS provider may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the wireless emergency 911 fee under section 26(a) of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time.

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

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

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

- (i) are identified by the county under section 40 of this chapter as eligible for distributions; and
- (ii) accept wireless enhanced 911 service;

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

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

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

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

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

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

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

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

(4) The board may not make a transfer that:

(A) impairs cost recovery by CMRS providers or PSAPs; or

(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

(c) If all CMRS providers have been reimbursed for their costs under this chapter, and the fee has been reduced under section 26(c) of this chapter, the board shall manage the fund in the following manner:

(1) One cent (\$0.01) of the wireless emergency 911 fee collected from each user may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this amount at the time the board may adjust the monthly fee assessed against each user to allow for full recovery of administration expenses.

(2) Thirty-eight and three tenths cents (\$0.383) of the wireless emergency 911 fee collected from each user must be distributed to each county containing at least one (1) PSAP, as 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 user 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).

*As added by P.L.98-1998, SEC.1. Amended by P.L.116-2000, SEC.3; P.L.16-2002, SEC.16; P.L.1-2003, SEC.102; P.L.146-2005, SEC.5; P.L.113-2010, SEC.149.*

#### **IC 36-8-16.5-40**

##### **Wireless emergency telephone system fund; PSAP eligibility to receive distribution to county treasurer**

Sec. 40. To be eligible to receive distributions from the fund under section 39 of this chapter, a PSAP must comply with the wireless enhanced 911 requirements established by the FCC order and rules. A county containing one (1) or more eligible PSAPs shall submit a written notice to the board that identifies each PSAP that complies with the FCC order and rules. Distributions under section 39 of this chapter to a county containing one (1) or more eligible PSAPs must begin in the first full month after the board receives the county's written notice under this section. The county treasurer shall deposit the distributions as prescribed in section 43 of this chapter.  
*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.17.*

#### **IC 36-8-16.5-41**

##### **PSAPs' use of fee distributions; third party audit upon complaint; audits by state board of accounts**

Sec. 41. (a) A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

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

(b) If:

- (1) the board receives a written complaint alleging that a PSAP has used money received under this chapter in a manner that is

inconsistent with this chapter; and

(2) a majority of the board votes to conduct an audit of the PSAP;

the board may contract with a third party auditor to audit the PSAP to determine whether the PSAP has used money received under this chapter in a manner consistent with this chapter.

(c) The state board of accounts shall audit the expenditures of wireless emergency enhanced 911 fees made during each of the following calendar years by each PSAP that received distributions under section 39 of this chapter during the following calendar years:

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

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

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

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

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

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

*As added by P.L.98-1998, SEC.1. Amended by P.L.137-2008, SEC.10.*

#### **IC 36-8-16.5-42**

##### **Requests for reimbursement by CMRS providers; submission of sworn invoices after December 31, 2005; audits concerning use of funds**

Sec. 42. (a) A CMRS provider shall submit to the board sworn invoices related to a request for reimbursement under section 39 of this chapter. An invoice submitted under this section must contain language swearing or affirming, under the penalty of perjury, that the representations made in the invoice are accurate to the best of the signer's knowledge. The signer must be:

(1) an employee or officer of the CMRS provider submitting the invoice; and

(2) designated by the CMRS provider to sign on its behalf and bind the CMRS provider to the representations made.

The board may not approve an invoice submitted under this section if reimbursement of a cost described in the invoice is not related to compliance with the requirements of the FCC order and the rules adopted by the FCC under the FCC order. The board may not approve an invoice submitted under this section after December 31,

2005.

(b) If:

(1) the board receives a written complaint alleging that a CMRS provider has used money received under this chapter in a manner that is inconsistent with this chapter; and

(2) a majority of the board votes to conduct an audit of the CMRS provider;

the board may contract with a third party auditor to audit the CMRS provider to determine whether the CMRS provider has used money received under this chapter in a manner consistent with this chapter. *As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.18; P.L.146-2005, SEC.6.*

### **IC 36-8-16.5-43**

#### **County wireless emergency telephone system funds; establishment; deposits by county treasurer**

Sec. 43. The distribution of wireless emergency enhanced 911 funds by the board for cost recovery by PSAPs under section 39 of this chapter must be deposited by the county treasurer in a separate fund set aside for the purposes allowed by section 41 of this chapter. The fund must be known as the \_\_\_\_\_ (insert name of county) wireless emergency telephone system 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 section.

*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.19.*

### **IC 36-8-16.5-44**

#### **Requirement to provide wireless 911 service**

Sec. 44. A CMRS provider is not required to provide wireless 911 service unless the elements requiring CMRS providers to provide wireless 911 service under the FCC order are present.

*As added by P.L.98-1998, SEC.1.*

### **IC 36-8-16.5-45**

#### **Confidentiality of proprietary information; disclosure of general information**

Sec. 45. (a) All proprietary information submitted to the board or the treasurer of state is confidential. Notwithstanding any other law, proprietary information submitted under this chapter is not subject to subpoena, and proprietary information submitted under this chapter may not be released to a person other than to the submitting CMRS provider without the permission of the submitting CMRS provider.

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

*As added by P.L.98-1998, SEC.1. Amended by P.L.113-2010, SEC.150.*

### **IC 36-8-16.5-46**

#### **Immunity from civil and criminal liability**

Sec. 46. Notwithstanding any other law, the board, a PSAP, political subdivision, CMRS provider, local exchange company, or an employee, director, officer, or agent of a PSAP, political subdivision, CMRS provider, or local exchange company, or a member of the board or the board chair, or an employee, an agent, or a representative of the board chair is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and providing enhanced wireless 911 service in compliance with the requirements established by the FCC order and rules adopted under the FCC order, except in the case of willful or wanton misconduct.  
*As added by P.L.98-1998, SEC.1. Amended by P.L.16-2002, SEC.20.*

### **IC 36-8-16.5-47**

#### **Accepted uses of wireless emergency 911 telephone service**

Sec. 47. (a) A person may not use the wireless 911 service except to make emergency calls that may result in dispatch of the appropriate response for fire suppression and rescue, emergency medical or ambulance services, hazardous material, disaster or major emergency occurrences, and law enforcement activities.

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

*As added by P.L.98-1998, SEC.1.*

### **IC 36-8-16.5-48**

#### **Automatic alarms or alerting devices prohibited**

Sec. 48. (a) A person may not connect an automatic alarm or other automated alerting device to a wireless 911 service supplier's network that:

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

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

*As added by P.L.98-1998, SEC.1.*

### **IC 36-8-16.5-49**

#### **Use of wireless emergency 911 telephone service for emergency communications; use to avoid CMRS charges or obtain CMRS service prohibited**

Sec. 49. (a) Wireless emergency 911 telephone service may be used only for emergency communications by the public.

(b) Except as provided in subsection (c), a person who knowingly or intentionally uses or attempts to use wireless emergency telephone service:

- (1) for a purpose other than obtaining public safety assistance;
- or

(2) in an effort to avoid CMRS charges;  
commits a Class A misdemeanor.

(c) A person who:

- (1) knowingly or intentionally uses wireless emergency telephone service in a manner prohibited by subsection (b); and
- (2) obtains CMRS service with a value of at least one hundred dollars (\$100) from the use;

commits a Class D felony.

*As added by P.L.98-1998, SEC.1.*

#### **IC 36-8-16.5-50**

##### **Utility regulatory commission; prohibition against exercising jurisdiction over CMRS service**

Sec. 50. The utility regulatory commission may not exercise jurisdiction over the:

- (1) rates;
- (2) terms; or
- (3) conditions;

of CMRS service, including a CMRS mobile phone.

*As added by P.L.146-2005, SEC.7.*

#### **IC 36-8-16.5-51**

##### **Limitation on number of PSAPs in a county after December 31, 2014; exceptions; establishing new PSAPs on or after March 15, 2008, prohibited; interlocal agreements; other parties; plans required**

Sec. 51. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.

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

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

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

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

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

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

- (1) a state educational institution;

(2) in the case of a county having a consolidated city, an airport authority established for the county; or

(3) the municipality having the largest population in the county or an agency of that municipality.

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

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

(1) Other counties contiguous to the county.

(2) Other political subdivisions in a county contiguous to the county.

(3) Other PSAP operators in a county contiguous to the county.

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

(1) A plan for the:

(A) consolidation;

(B) reorganization; or

(C) elimination;

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

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

(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements, protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

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

*As added by P.L.137-2008, SEC.11. Amended by P.L.173-2011,*

*SEC.12.*