

## CHAPTER 138

( HB 424 )

AN ACT relating to the Kentucky 911 Services Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 65.7623 is amended to read as follows:

- (1) There is hereby created the Kentucky 911 Services Board, the "board," consisting of *seven (7) members as follows*:
- (a) *The executive director of the Office of Homeland Security;*
  - (b) *The secretary of the Public Protection Cabinet;*
  - (c) *One (1) elected city official of a city government appointed by the Kentucky League of Cities;*
  - (d) *One (1) elected county official of a county government appointed by the Kentucky Association of Counties;*
  - (e) *One (1) director of a certified PSAP operated by a local government entity or a consolidated group of local government entities who previously served on the 911 Services Advisory Council and is not an elected official, to be appointed jointly by the Kentucky Association of Public-Safety Communications Officials and the Kentucky Emergency Number Association;*
  - (f) *One (1) member representative of a county or city government appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities or Kentucky Association of Counties. The Kentucky League of Cities and the Kentucky Association of Counties shall alternate in providing a list of names to the Governor every two (2) years, and the selected member representative shall serve for a two (2) year term and may be an elected city or county official; and* ~~fifteen (15) members, eleven (11) of whom shall be voting members appointed by the Governor, two (2) of whom shall be voting members who shall serve by virtue of their offices, and two (2) shall be nonvoting legislative members, as follows: }~~
  - (g) *One (1) member appointed by the Governor who* ~~Two (2) members~~ *shall be employed by or representative of the interest of CMRS providers. The member representing the interests of CMRS providers shall serve for a two (2) year term, and shall alternate between representing a Tier I provider and a Tier III provider*~~, of which, one (1) shall be a representative of a Tier III CMRS provider; two (2) members serving as city officials, one (1) of which shall be an elected city official, from a list of four (4) nominees submitted by the Kentucky League of Cities; two (2) members serving as county officials, both of which shall be elected county officials, from a list of four (4) nominees submitted by the Kentucky Association of Counties; one (1) member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, the Kentucky Sheriff's Association, and the Kentucky Ambulance Providers Association; two (2) members shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials; one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities; and two (2) nonvoting legislative members to serve solely in advisory capacities for terms of two (2) years; one (1) of whom shall be a member of the House of Representatives to be appointed by the Speaker of the House of Representatives and one (1) of whom shall be a member of the Senate to be appointed by the President of the Senate. The commissioner of the Department of Kentucky State Police, or the commissioner's designee, and the executive director of the Office of Homeland Security, or the executive director's designee, also shall be voting members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment~~.
- (2) The ~~commissioner of the Department of Kentucky State Police and the~~ executive director of the Office of Homeland Security *and secretary of the Public Protection Cabinet* shall serve by virtue of their offices. The ~~commissioner of the Department of Kentucky State Police and the~~

~~other~~ *members appointed under subsection (1)(c) to (e) of this section shall be appointed* ~~[nonlegislative members shall be appointed by the Governor]~~ for a term of four (4) years and until their successors are appointed and qualified~~], except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years. Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members].~~ *Members appointed under subsection (1)(f) and (g) of this section shall serve for a term of two (2) years. Members appointed under subsection (1)(c) to (g) of this section may only serve as long as the appointee holds the office or position he or she held at the time of his or her appointment. Any vacancy on the board shall be filled in the same manner as the original appointment and shall be for the remainder of the unexpired term.*

- (3) *No member of the board shall be held to be a public officer by reason of membership on the board. The elected city and county officials appointed under subsection (1) of this section shall each serve on the board in an ex officio voting capacity by virtue of their respective elected offices as long as they continue to occupy their local elected positions during their term as a board member. Their duties as members of the board shall be an extension of their duties as local elected officials and their service on the board shall not constitute the holding of a separate and distinct public office apart from their respective local elected positions.*
- (4) *The executive director of the Office of Homeland Security shall serve as chair and* ~~[board shall elect a chair from among its voting members to]~~ *preside over meetings of the board, which shall be conducted at least four (4) times each year. In the absence of the executive director of the Office of Homeland Security, the board may be chaired by any other member of the board selected by the remaining members.* The board shall be subject to the provisions of the Kentucky Open Meetings Act, KRS 61.805 to 61.850. The board shall establish a regular meeting schedule for each calendar year. The board shall hold at least two (2) meetings per calendar year in congressional districts other than the one in which Frankfort is located, and shall rotate its traveling meeting locations among the congressional districts before holding another traveling meeting in the same congressional district. A majority of the ~~[voting]~~ members appointed to the board shall constitute a quorum.
- (5)~~(4)~~ *In addition to the administrator appointed by the executive director of the Office of Homeland Security* ~~[board]~~ *under KRS 65.7625, the* ~~[Kentucky]~~ *Office of Homeland Security shall provide staff services, office space, and other resources necessary to conduct its affairs* ~~[and carry out administrative duties and functions as directed by the board].~~ The board shall be attached to the ~~[Kentucky]~~ Office of Homeland Security for administrative purposes ~~but only and~~ shall operate as an independent entity within state government.
- (6)~~(5)~~ *The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.*
- (7)~~(6)~~ *All administrative costs and expenses incurred in the operation of the board, including payments under subsections (5) and (6)* ~~[subsection (5)]~~ *of this section and Section 2 of this Act, shall be paid as reimbursement to the Office of Homeland Security from that portion of the CMRS fund that is authorized under KRS 65.7631(2) to be used by the board for administrative purposes. Expenses for personnel, equipment, or facilities that serve multiple functions or purposes shall be prorated. Only those costs for services directly involved in the coordination and administration of duties related to the CMRS emergency telecommunications function shall be eligible for payment using the funds provided in KRS 65.7631(2).*
- (8) *Prior to June 1 of each year, the Office of Homeland Security shall submit a budget detailing all projected administrative and operational expenses for the subsequent fiscal year to be used by the board in establishing the board's budget for the upcoming fiscal year.*
- (9) *The board shall be advised by a permanent advisory council with members appointed by the executive director of the Office of Homeland Security. The members of the advisory council shall represent the interests of the 911 community and shall, at a minimum, include a representative from each of the following organizations:*
  - (a) *1. The Department of Kentucky State Police;*
  - 2. The Kentucky Sheriff's Association;*
  - 3. The Kentucky Association of Chiefs of Police;*
  - 4. The Kentucky Fire Chiefs Association;*
  - 5. The Kentucky Ambulance Providers Association;*

6. *The Kentucky League of Cities;*
  7. *The Kentucky Association of Counties;*
  8. *The Department of Criminal Justice Training; and*
  9. *The Kentucky Board of Emergency Medical Services;*
- (b) *The Kentucky Association of Public-Safety Communications Officials and the Kentucky Emergency Number Association, each appointed by the executive director of the Office of Homeland Security from a list of three (3) names submitted by both organizations; and*
- (c) *Any other members selected by the executive director who are familiar with PSAPs, public finances, shared governmental services, emergency management, community crisis response preparation, or the interests of 911 service stakeholders.*

➔Section 2. KRS 65.7625 is amended to read as follows:

- (1) The *executive director of the Office of Homeland Security* ~~[Kentucky 911 Services Board]~~ shall appoint a state administrator of commercial mobile radio service emergency telecommunications. The *executive director of the Office of Homeland Security* ~~Board~~ shall set the administrator's compensation, *the cost of which may be shared by the Office of Homeland Security and the Kentucky 911 Services Board. The board shall be responsible for any portion of the administrator's salary that is not to be paid by the Office of Homeland Security, with the board's portion of the salary to* ~~[which shall]~~ be paid from that portion of the CMRS fund that is authorized under KRS 65.7631(2) to be used by the board for administrative purposes.
- (2) The administrator of CMRS emergency telecommunications shall serve as the coordinator and administrator on behalf of the board, and shall conduct the day-to-day operations of the board.
- (3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:
  - (a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;
  - (b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state, including the development and implementation of next generation 911 service;
  - (c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order; and
  - (d) Perform all functions and duties assigned by the board in carrying out the purposes of KRS 65.7621 to 65.7643, including but not limited to making a full report to the board at each meeting of the activities in which the administrator has engaged in the discharge of his or her duties since the previous meeting.

➔Section 3. KRS 65.7631 is amended to read as follows:

- (1) The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.
- (2) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board in carrying out the functions and duties set forth in KRS 65.7621 to 65.7643.
- (3) (a) Two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be used solely for the purpose of reimbursing the actual expenses incurred by tier III CMRS providers from June 30, 2011, to January 1, 2016, for complying with requirements established by the FCC order. Reimbursement under this subsection is only available to tier III CMRS providers that:

1. Have a cost recovery plan that was approved by the CMRS Board, predecessor in name to the Kentucky 911 Services Board, prior to June 30, 2011; and
  2. Had received approval for reimbursement from the CMRS Board, predecessor in name to the Kentucky 911 Services Board, prior to the effective date of this section.
- (b) When all reimbursements approved under this subsection have been paid, the two and one-half percent (2.5%) apportioned under this subsection shall be used solely for the purposes specified in subsection (5) of this section.
- (4) Ten percent (10%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement to provide direct grants, matching money, or funds to PSAPs as determined by the Kentucky 911 Services Board:
- (a) For the establishment and improvement of 911 services in the Commonwealth, including the implementation of next generation 911 capacity;
  - (b) For incentives to create more efficient delivery of 911 services by local governments receiving funding under subsection (5) of this section;
  - (c) For improvement of 911 infrastructure by Tier III wireless providers receiving funding under this section; and
  - (d) For consolidation reimbursement of two hundred thousand dollars (\$200,000) per PSAP, not to exceed four hundred thousand dollars (\$400,000) per county, to any PSAP that consolidates with a CMRS-certified PSAP, or creates a newly consolidated Phase II compliant PSAP. Funds shall be applied toward the cost of consolidating. If a PSAP consolidates and receives reimbursement, the Kentucky 911 Services Board shall not certify a new PSAP within the same county for a period of ten (10) years.

When the balance of money collected under this subsection and not yet obligated for permitted uses exceeds ~~three~~~~two~~ million dollars (~~\$3,000,000~~)(~~(\$2,000,000)~~) in any fiscal year, the excess amount shall be allocated under subsection (5) of this section.

- (5) The balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsections (2), (3), and (4) of this section have been subtracted shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (6) of this section who actually request disbursement, as follows:
- (a) Fifty percent (50%) of the remaining balance to be allocated under this subsection shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (6) of this section. Any PSAPs certified before January 1, 2004, or for more than three (3) years, that choose to consolidate their operations shall continue to receive pro-rata shares as if they remained separate and distinct entities. The consolidated entity must be certified to receive funds under subsection (6) of this section; and
  - (b) Fifty percent (50%) of the remaining balance to be allocated under this subsection shall be distributed according to a method chosen by the board and based on the wireless workload of the PSAP. Methods to be considered may be based on the number of wireless 911 calls answered by each PSAP, the number of wireless phone users served by each PSAP, or any other method deemed by the board to be reasonable and equitable. The method chosen by the board shall be promulgated as a regulation under KRS 65.7633.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, training PSAP staff, and public education concerning appropriate use of 911, in accordance with KRS 65.760(4) and (5). Additionally, amounts distributed to PSAPs under this subsection may be used for the purposes of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

- (6) (a) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (4)(a) or (b) or (5) of this section unless and until the PSAP:

1. Is expressly certified as a PSAP by the Kentucky 911 Services Board, upon written application to the board;
  2. Demonstrates that the PSAP is providing E911 services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency service;
  3. Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;
  4. Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year if requested by the board; and
  5. Demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service.
- (b) In addition to the requirements of paragraph (a) of this subsection and in order to encourage the additional consolidation of PSAPs by local governments and state government agencies, after January 1, 2017, a PSAP shall receive priority consideration for distributions of funds from subsection (4)(a) and (b) of this section as follows:
1. A PSAP that is not a state police dispatch center and that covers all local governments within two (2) or more counties shall receive first priority in the distribution of the funds by the board;
  2. A PSAP, including any state police dispatch center, that covers all the local governments within a single county shall receive second priority in the distribution of the funds by the board; and
  3. A PSAP that does not cover all of the local governments within a single county shall receive the last priority for the distribution of the funds listed in this subsection by the board.

**Signed by Governor April 10, 2018.**