

AN ACT relating to 911 emergency services and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

- (1) The general welfare and safety of the citizens of the Commonwealth of Kentucky in emergency situations depends in large measure upon a fully functional 911 emergency services system;*
- (2) It is in the best interests of the Commonwealth to provide adequate resources to local governments for the effective delivery of life-saving 911 emergency services;*
- (3) The authority granted and the purposes to be accomplished by KRS 65.750 to 65.760 and 65.7621 to 65.7643 are proper governmental and public purposes necessary for the provision of 911 emergency services to the citizens of the Commonwealth; and*
- (4) The CMRS service charge is vital to the provision of 911 emergency service to the citizens of the Commonwealth and is intended to be uniform and apply to each CMRS connection regardless of whether that connection is prepaid, post paid, or uses free minutes.*

➔Section 2. KRS 65.750 is amended to read as follows:

As used in ~~{this section to}~~ KRS 65.750 to 65.760:

- (1) "911 emergency ~~{telephone}~~service" means *a system that provides the end user of a service connection with emergency services by dialing 9-1-1, directs 911 calls to the appropriate public safety answering points based on the geographic location from which the call originated, and provides the capability for automatic number identification and automatic location identification features in accordance with the FCC order*~~{a telephone service which provides the user of the public telephone system the ability to place calls to a public safety answering point on a twenty-four~~

~~(24) hour basis and reach local emergency service agencies by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services. The term "911 emergency telephone service" includes the term wireline "enhanced 911 system," which means an emergency telephone system that provides the caller with wireline emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and may provide the capability for automatic number identification, pseudo-automatic number identification, selective routing, and automatic location identification features. As used in KRS 65.760, the term "911 emergency telephone service" does not include the term "wireless enhanced 911 system," "wireless enhanced 911 service," or "wireless E911 service" as used in KRS 65.7621 to 65.7643};~~

- (2) **"Automatic call distribution" or "ACD" means a system that automatically distributes incoming calls to PSAP attendants in the order the calls are received;**
- (3) **"Automatic number identification[~~-(ANI)]" or "ANI" means an enhanced 911 service capability that enables the automatic display on an ALI screen of the ten (10) digit or equivalent wireless telephone number used to place a 911 call~~**~~[a feature that allows for the automatic display of the ten (10) digit number, or equivalent, used to place a 911 call];~~
- (4)~~(3)~~ **"Automatic location identification[~~-(ALI)]" or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the pseudo automatic number identification~~**~~[a feature by which the name and address associated with the calling party's telephone number is made~~

available to a PSAP];

~~(5)~~~~(4)~~ "Automatic location identification data management system~~[(ALI/DBS)]~~" or "ALI/DBS" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(6) "Automatic vehicle location" or "AVL" means a system used to track emergency responder vehicles;

(7) "CMRS":

(a) Means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993; and

(b) Includes the term "wireless" and service provided by any wireless real-time two (2) way voice communication device, including radio-telephone communications as used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line;

~~(8)~~~~(5)~~ "Dispersed private telephone system~~[(DPTS)]~~" or "DPTS" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures but does not mean a multiline, shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;

(9) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;

~~(10)~~~~(6)~~ "Fully enhanced 911 emergency telephone service" means a telephone network feature that selectively routes calls placed to the national 911 emergency number to the proper public ~~safety~~~~service~~ answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(11) "Geographic information systems" or "GIS" means a system for capturing, storing, displaying, analyzing, and managing data, and associated attributes which are spatially referenced;

(12) "Law Enforcement Information Network of Kentucky and the National Crime Information Center" or "LINK/NCIC" means two (2) systems used by law enforcement and emergency communications personnel for short messaging between agencies and to request vehicle, driver, and criminal history checks;

(13) "Local government" means any city, county, urban-county government, consolidated local government, unified local government, or charter county government;

(14) Master street address guide" or "MSAG" means a database of street names and house number ranges within their associated communities defining emergency services zones and their associated emergency service numbers used by PSAPs to enable proper routing of 911 calls;

~~(15)~~~~(7)~~ "Private branch exchange~~-(PBX)~~" **or "PBX"** means a privately owned switch system that connects calls to a telephone company;

~~(16)~~~~(8)~~ "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(17) "Service connection" means the transmission, conveyance, or routing of voice, data, video, text, or any other information signal of the purchaser's choosing by any medium or method now in existence or later devised with the ability to

connect the user to 911 emergency services;

~~(18)~~~~(9)~~ "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber;~~and~~

~~(19)~~~~(10)~~ "Station identification number ~~(SIN)~~" **or "SIN"** means a number that a DPTS uses to identify a specific station on the switch.; **and**

(20) "Voice over Internet Protocol" or "VoIP" means the transmission, conveyance, or routing in which computer processing applications are used to act on the form code or protocol of the content purposes of transmission, conveyance, or routing without regard to whether the service is referred to as Voice over Internet Protocol or VoIP services

➔Section 3. KRS 65.760 is amended to read as follows:

- (1) Any **local** ~~[city, county, or urban county]~~ government may establish 911 emergency ~~[telephone]~~ service upon approval of the governing body of the city, county, or urban-county government and may adopt regulations concerning the provision of this service by ordinance.
- (2) Any **local** ~~[city, county, or urban county]~~ government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency ~~[telephone]~~ service.
- (3) **(a)** The funds required by a **local** ~~[city, county, or urban county]~~ government to establish and operate 911 emergency ~~[telephone]~~ service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state. The special tax, license, or fee may include a subscriber charge for 911 emergency ~~[telephone]~~ service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per account per government entity.

- (b)** Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point.
- (c)** *Any telecommunications provider that provides interconnected voice over internet protocol (VoIP) local and 911 emergency services to subscribers for compensation shall collect and remit the special tax, license, or fee to the local government*~~[All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for the establishment, operation, and maintenance of a 911 emergency communications system; this may include expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service].~~
- (4)** *All revenues from a special tax, license, or fee levied in accordance with subsection (3) of this section shall be expended solely for the establishment, operation, and maintenance of 911 emergency services as permitted or not permitted according to 202 KAR 6:090.*
- (5)** The governing body may apply for and accept federal moneys and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.
- (6)**~~(5)~~ Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

➔Section 4. KRS 65.7621 is amended to read as follows:

As used in KRS 65.7621 to 65.7643, unless the context requires otherwise:

- (1) "Administrator" means the state administrator of CMRS emergency telecommunications under KRS 65.7625;
- (2) "Automatic location identification", or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification;"
- (3) "Automatic number identification", or "ANI" means an enhanced 911 service capability that enables the automatic display on an ALI screen of the ten-digit, or equivalent, wireless telephone number used to place a 911 call;
- (4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line;
- (5) "CMRS Board" or "board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky;
- (6) "CMRS connection" means a mobile handset telephone number assigned to a CMRS customer;
- (7) "CMRS customer" means an end user to whom a mobile handset telephone number is assigned and to whom CMRS is provided in return for compensation;
- (8) "CMRS Fund" means the commercial mobile radio service emergency telecommunications fund;
- (9) "CMRS provider" means a person or entity who provides CMRS to an end user.

- The term includes both facilities-based resellers and nonfacilities-based resellers;
- (10) "CMRS service charge" means the CMRS emergency telephone service charge levied under KRS 65.7629(3) and collected under KRS 65.7635;
- (11) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;
- (12) "Local exchange carrier" or "LEC" means any person or entity who is authorized to provide telephone exchange service or exchange access in the Commonwealth;
- (13) "Local government" means any city, county, charter county, or urban-county government of the Commonwealth, or any other governmental entity maintaining a PSAP;
- (14) "Mobile telephone handset telephone number" means the ten (10) digit number assigned to a CMRS connection;
- (15) **"Next generation 911" means a 911 system where any device capable of making a 911 emergency request does so through managed emergency services IP networks comprised of functional elements and databases that replicate E911 features and functions while providing additional multimedia capabilities for the PSAP;**
- (16)** "Proprietary information" means information held as private property, including customer lists and other related information, technology descriptions, technical information, or trade secrets;
- (17)**~~(16)~~ "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face;
- (18)**~~(17)~~ "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay

911 calls to appropriate public safety agencies;

~~(19)~~~~(18)~~ "Service supplier" means a person or entity who provides local exchange telephone service to a telephone subscriber;

~~(20)~~~~(19)~~ "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911 service," or "wireless E911 service" means an emergency telephone system that provides the end user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features in accordance with the requirements of the FCC order; and

~~(21)~~~~(20)~~ "Tier III CMRS provider" means a non-nationwide Commercial Mobile Radio Service provider with no more than five hundred thousand (500,000) subscribers as of December 31, 2001.

➔Section 5. KRS 65.7629 is amended to read as follows:

The board shall administer the provisions of KRS 65.7621 to 65.7643, and shall have the following powers and duties:

- (1) To review, evaluate, and approve or disapprove the plans or plan modifications that are submitted to the board for complying with the wireless E911 service requirements established by the FCC order and by any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order;
- (2) To develop standards to be followed by the board in reviewing, evaluating, approving, or disapproving the plans or plan modifications that are submitted to the board;
- (3) To collect the CMRS service charge from each CMRS connection:
 - (a) With a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth; or

- (b) For prepaid CMRS connections:
1. With a place of primary use, as defined in 4 U.S.C. sec. 124, within the Commonwealth; or
 2. With a geographical location associated with the first six (6) digits, or NPA/NXX, of the mobile telephone number is inside the geographic boundaries of the Commonwealth.

The CMRS service charge shall be one dollar (\$1)~~seventy cents (\$0.70)~~ per month per CMRS connection, and shall be calculated, collected, and remitted in accordance with Section 8 of this Act~~[KRS 65.7635 beginning August 15, 1998]~~.

The amount of the CMRS service charge shall be indexed to the annual CPI-U beginning on July 1, 2016, and shall be automatically adjusted to reflect the percentage increase in the annual CPI-U rounded up to the nearest whole cent in January every year thereafter, unless otherwise directed by the Kentucky General Assembly. As used in this subsection, "CPI-U" means the nonseasonally adjusted United States city average of the Consumer Price Index for all urban consumers for all items, as released by the Federal Bureau of Labor Statistics~~[shall not be increased except by act of the General Assembly]~~;

- (4) To review the rate of the CMRS service charge at least once every twenty-four (24) months and, at its discretion, to decrease the rate or recommend that the General Assembly increase the rate if the board determines that changing the rate is necessary to achieve the purposes of KRS 65.7621 to 65.7643~~[. The first cost study shall be completed on or before July 1, 1999, and shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and the board shall recommend, on the basis of the cost study, whether legislation to increase the CMRS service charge should be proposed during the 2000 Regular Session of the General Assembly]~~;
- (5) To administer and maintain the CMRS fund according to the provisions of KRS

- 65.7627, and promptly to deposit all revenues from the CMRS service charge into the CMRS fund;
- (6) To make disbursements from the CMRS fund, according to the allocations and requirements established in KRS 65.7631;
 - (7) To establish procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements made in accordance with KRS 65.7631;
 - (8) To resolve conflicts regarding reimbursable costs and expenses under KRS 65.7631 (3) ~~and (4)~~;
 - (9) To submit annual reports to the Auditor of Public Accounts no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS fund during the preceding fiscal year and all disbursements to CMRS providers and PSAPs during the preceding fiscal year;
 - (10) To employ consultants, engineers, and other persons and employees as may be, in the judgment of the board, essential to the board's operations, functions, and responsibilities, and to fix and pay their compensation from funds available to the CMRS board;
 - (11) To acquire, by gift, purchase, installment purchase, or lease, any equipment necessary to carry out the board's purposes and duties;
 - (12) To retain any and all information, including all proprietary information, that is submitted to the board by CMRS providers and PSAPs, for the purposes of maintaining it and verifying its accuracy;
 - (13) To retain, with approval by the Auditor of Public Accounts, an independent certified public accountant who shall audit, once every twenty-four (24) months, the books of the board, CMRS providers, and PSAPs eligible to request or receive disbursements from the CMRS fund under KRS 65.7631 for the following

purposes:

- (a) To verify the accuracy of collection, receipts, and disbursements of all revenues derived from the CMRS service charge and the number of wireless E911 calls received by each PSAP eligible to request or receive disbursements from the CMRS fund;
- (b) To determine whether the revenues generated by the CMRS service charge equal, exceed, or are less than the costs incurred in order to comply with the FCC order; and
- (c) To determine the sufficiency of the funds currently being withheld for administrative purposes under KRS 65.7631(1).

The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs. The board shall incorporate the auditor's findings in its studies of the CMRS service charge required by subsection (4) of this section. All information with respect to the audits shall be released to the public or published only in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to individual CMRS providers;

- (14) To ensure that all carriers have an equal opportunity to participate in the wireless E911 system;
- (15) To ensure that wireless next generation 911 systems and E911 systems are compatible with wireline E911 systems;
- (16) To determine the appropriate method for disbursing funds to PSAP's based on wireless workload under KRS 65.7631(3)(b);
- (17) To develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky; ~~and~~
- (18) To provide direct grants or state matches for federal, state, or private grants for the establishment or improvement of the 911 emergency telecommunications system in

the Commonwealth; and

(19) To implement next generation 911 capacity statewide.

➔Section 6. KRS 65.7630 is amended to read as follows:

- (1) The CMRS Board shall gather and report data and information regarding 911 emergency communications funding procedures and costs on or before August 1, 2011, and each August 1 thereafter.
- (2) The CMRS Board shall determine the information it needs to evaluate 911 funding, CMRS service charge collections, and expenditures, and each local governmental agency, state governmental agency, wireless or wireline provider of technology capable of transmitting voice traffic for an emergency 911 request to a PSAP, and/or private citizen in possession of that information shall provide the information to the board within the time frames established by the board. The board may hire a consultant to gather and analyze the information required by this section.
- (3) Each local governmental agency and state governmental agency having jurisdiction over one (1) or more public safety answering points (PSAPs) shall provide at least the following information to the board:
 - (a) For each PSAP for fiscal years 2007-2008, 2008-2009, 2009-2010, and 2010-2011:
 1. Wireline 911 fees;
 2. CMRS Board fund money dispersed to the PSAP;
 3. Direct grants or state matches for federal, state, or private grants; and
 4. Gifts or other amounts not otherwise reported in this paragraph; and
 - (b) How the revenue described in this paragraph was spent by the PSAPs.
- (4) Each wireless or wireline provider of technology capable of transmitting voice traffic for an emergency 911 request to a PSAP shall report to the board the amount of reimbursements received in fiscal years 2007-2008, 2008-2009, 2009-2010, and 2010-2011.

- (5) Each local governmental agency, state governmental agency, or wireless or wireline provider of technology capable of transmitting voice traffic for an emergency 911 request to a PSAP that fails to provide the information required by this section shall not be eligible to receive distributions of state funds from the CMRS Board.
- (6) **(a) Each provider of wireless service shall report to the board on a quarterly basis the number of its active CMRS connections in each zip code within Kentucky for each month of the quarter. For the purposes of this report "active CMRS connection" means those CMRS connections which are subject to the CMRS service charge as provided in subsection (3) of Section 5 of this Act and any CMRS connection purchased on a prepaid basis with an account balance greater than zero on any day of the month.**
- (b) The report shall explicitly state the number of active CMRS connections that purchase service on a prepaid basis and the number of CMRS connections that purchase service on a post paid basis.**
- (c) Reports required by this subsection shall be submitted in a form and format to be determined by the board and shall be submitted to the board no later than thirty (30) days after the end of each quarter.**
- (7)** The CMRS Board shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish annual reporting requirements so that the board has the information needed to monitor the use of 911 funds and the rate of the 911 service charge.
- (8)**~~(7)~~ All information received by the CMRS Board pursuant to this section shall be subject to disclosure under KRS 61.870 to 61.884. Proprietary information given to the board by any wireless or wireline provider of technology capable of transmitting voice traffic for an emergency 911 request to a PSAP pursuant to this section shall be subject to the same confidentiality as provided for proprietary information under KRS 65.7639.

~~(9)~~~~(8)~~ The CMRS Board shall ensure that the Legislative Research Commission has access to all data collected under this section and shall report this information to the Legislative Research Commission's Interim Joint Committee on Veterans, Military Affairs, and Public Protection by August 1 of each year.

➔Section 7. KRS 65.7631 is amended to read as follows:

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.

(1) 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, including the compensation of the administrator and expenses incurred pursuant to KRS 65.7629(10), (11), (13), (16), (17), and (18). An additional sum, not to exceed two hundred fifty thousand dollars (\$250,000), shall be available to the board from the fund to implement the wireless workload formula under subsection (3)(b) of this section.

(2) ~~{(a)—}~~Not more than ***twenty percent (20%)***~~{ten percent (10%)}~~ of the total monthly revenues deposited into the CMRS fund shall be ~~{disbursed or}~~ reserved for disbursement by the board ***and is apportioned as follows:***

(a) 1. Until December 31, 2015, five percent (5%) shall be used solely for the purpose of reimbursing actual expenses incurred by CMRS providers from June 30, 2012, to the effective date of this Act, in complying with the wireless E911 service requirements established by the FCC order. Reimbursement under this paragraph is only available to CMRS providers who:

a. Are tier III CMRS providers; and

b. Have a cost recovery plan approved by the CMRS board prior to June 30, 2012;

2. After claims paid under subparagraph 1. Of this paragraph, five percent (5%) shall be used to provide direct grants, ~~or~~ matching money, **or funds**:

a.~~[1.]~~ For the establishment and improvement of **911**~~[E911]~~ services in the Commonwealth;

b.~~[2.]~~ For incentives to create more efficient delivery of **911**~~[E911]~~ services by local governments receiving funding under subsection (3) of this section; **and**

c.~~[3.]~~ ~~[For improvement of 911 infrastructure by wireless carriers receiving funding under subsection (4) of this section; and~~

~~4.]~~ For consolidation reimbursement of one hundred **fifty** thousand dollars **(\$150,000)**~~(\$100,000)~~ per PSAP, not to exceed **three**~~two~~ hundred thousand dollars **(\$300,000)**~~(\$200,000)~~ 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 CMRS Board shall not certify a new PSAP within the same county for a period of ten (10) years.

~~[(b)]~~ When the balance of money collected under **this** paragraph~~[(a)]~~ of ~~this subsection~~ and not yet disbursed for direct grants or matching moneys exceeds two million dollars (\$2,000,000), the excess amount shall be allocated under **subsection**~~[the provisions of subsections]~~ (3)~~and (4)]~~ of this section; **and**

(b) Fifteen percent (15%) shall be used by the board for the implementation of next generation 911 capacity and may be used for:

1. Disbursements to PSAPs for costs associated with the implementation of next generation 911 capacity; and
2. Reimbursement to CMRS providers for costs associated with the implementation of next generation 911 capacity.

(3) ~~From~~ The balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsections (1) and (2) of this section have been subtracted, ~~eighty percent (80%)~~ shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection ~~(4)~~~~(5)~~ of this section who actually request disbursement, as follows:

- (a) Fifty percent (50%)~~Forty percent (40%)~~ 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 (5) 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 (5) of this section; and
- (b) Fifty percent (50%)~~Forty percent (40%)~~ 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 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, public education concerning appropriate use of 911, and

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.

- (4) ~~{The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1), (2), and (3) of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in 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 in carrying out the FCC order, including but not limited to costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. No payment shall be made to any provider who is not in compliance with all requirements of this chapter and the FCC order. In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month,~~

~~based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.~~

~~(5)~~ Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (3) of this section unless and until the PSAP:

- (a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;
- (b) 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 telephone service;
- (c) 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;
- (d) 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
- (e) 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.

➔ Section 8. KRS 65.7635 is amended to read as follows:

- (1) Each CMRS provider shall act as a collection agent for the CMRS fund. From its customers, the provider shall, as part of the provider's billing process, collect the CMRS service charges levied upon CMRS connections under KRS 65.7629(3) from each CMRS connection to whom the billing provider provides CMRS. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge. If a CMRS provider receives a partial payment for a monthly bill from a CMRS customer, the provider shall first apply the payment

against the amount the CMRS customer owes the CMRS provider. For CMRS customers who purchase CMRS services on a prepaid basis, the CMRS service charge shall be determined according to one (1) of the following methodologies as elected by the CMRS provider:

- (a) *The provider shall multiply the CMRS service charge by the number of its active CMRS connections within the Commonwealth each month and shall pay the resulting amount to the board. For the purposes of this subsection, any CMRS connection with a balance remaining that is greater than zero during any day of the month shall be considered active for that month.*~~[The CMRS provider shall collect, on a monthly basis, the CMRS service charge specified in KRS 65.7629(3) from each active customer whose account balance is equal to or greater than the amount of service charge]; or~~
- (b) The CMRS provider shall divide its total earned prepaid wireless telephone revenue received with respect to its prepaid customers in the Commonwealth within the monthly 911 emergency~~[telephone]~~ service reporting period by *twenty dollars (\$20)*~~[fifty dollars (\$50)]~~, multiply the quotient by the service charge amount, and pay the resulting amount to the board~~[- or~~
- ~~(c) In the case of CMRS providers that do not have the ability to access or debit end-user accounts, and do not have retail contact with the end user or purchaser of prepaid wireless airtime, the CMRS service charge and collection methodology may be determined by administrative regulations promulgated by the board to collect the service charge from such end users].~~
- (2) A CMRS provider has no obligation to take any legal action to enforce the collection of the CMRS service charges for which any CMRS customer is billed. Collection actions to enforce the collection of the CMRS service charge against any CMRS customer may, however, be initiated by the state, on behalf of the board, in the Circuit Court of the county where the bill for CMRS service is regularly

delivered, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

- (3) State and local taxes shall not apply to separately stated CMRS service charges.
- (4) To reimburse itself for the cost of collecting and remitting the CMRS service charge, each CMRS provider may deduct and retain from the CMRS service charges it collects during each calendar month an amount not to exceed one and one-half percent (1.5%) of the gross aggregate amount of CMRS service charges it collected that month.
- (5) All CMRS service charges imposed under KRS 65.7621 to 65.7643 collected by each CMRS provider, less the administrative fee described in subsection (4) of this section, are due and payable to the board monthly and shall be remitted on or before thirty (30)~~sixty (60)~~ days after the end of the calendar month. Collection actions may be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

➔Section 9. KRS 65.7633 is amended to read as follows:

- (1) The CMRS Board shall implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.
- (2) As soon as practicable after its creation, the board shall promulgate regulations:
 - (a) Establishing procedures for the submission of plans or modifications of plans to the board, for its review and approval or disapproval, for 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 in carrying out the FCC order, including but

not limited to projections of anticipated costs and expenses necessary for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining on an ongoing basis all necessary data, hardware, and software required in order to provide this service;

- (b) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving the plans or modifications of plans that are submitted to it in accordance with the procedures promulgated under paragraph (a) of this subsection;
- (c) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements under KRS 65.7631(2) and (3) ~~and (4)~~; and
- (d) Establishing procedures and guidelines for resolving disputes regarding reimbursable costs and expenses under KRS 65.7631(2) and (3) ~~and (4)~~.