

## **IC 36-8-16.7**

### **Chapter 16.7. Statewide 911 Services**

#### **IC 36-8-16.7-1**

##### **"Affiliate"**

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 23-1-43-1. The term includes a parent company or a subsidiary.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-2**

##### **"Automatic location information"**

Sec. 2. As used in this chapter, "automatic location information" means information that is transmitted while enhanced 911 service is provided and that permits emergency service providers to identify the geographic location of the calling party.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-3**

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

Sec. 3. As used in this chapter, "automatic number identification" has the meaning set forth in 47 CFR 20.3.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-4**

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

Sec. 4. As used in this chapter, "board" refers to the statewide 911 board established by section 24 of this chapter.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-5**

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

Sec. 5. As used in this chapter, "CMRS" refers to commercial mobile radio service (as defined in 47 CFR 20.3).  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-6**

##### **"CMRS provider"**

Sec. 6. As used in this chapter, "CMRS provider" means a person that offers CMRS to users in Indiana.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-7**

##### **"Communications service"**

Sec. 7. (a) As used in this chapter, "communications service" means any service that:

- (1) uses telephone numbers or IP addresses or their functional equivalents or successors;
- (2) allows access to, or a connection or interface with, a 911

system through the activation or enabling of a device, transmission medium, or technology that is used by a customer to dial, initialize, or otherwise activate the 911 system, regardless of the particular device, transmission medium, or technology employed;

(3) provides or enables real time or interactive communications, other than machine to machine communications; and

(4) is available to a prepaid user or a standard user.

(b) The term includes the following:

(1) Internet protocol enabled services and applications that are provided through wireline, cable, wireless, or satellite facilities, or any other facility or platform that is capable of connecting a 911 communication to a PSAP.

(2) A multiline telephone system.

(3) CMRS.

(4) Interconnected VOIP service and voice over power lines.

(5) Integrated telecommunications service (as defined in 47 CFR 400.2).

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-8**

##### **"Customer"**

Sec. 8. (a) As used in this chapter, except as provided in subsection (b), "customer" means:

(1) the person or entity that contracts with a provider for communications service; or

(2) if the end user of communications service is not the contracting party, the end user of the communications service.

However, subdivision (2) applies only for the purpose of determining the place of primary use.

(b) The term does not include:

(1) a reseller of communications service; or

(2) a provider other than the customer's provider that has an arrangement with the customer's provider to serve the customer outside the licensed service area of the customer's provider.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-9**

##### **"Enhanced 911 service"**

Sec. 9. (a) As used in this chapter, "enhanced 911 service" means a communications service that uses the three (3) digit number 911 to send:

(1) automatic number identification or its functional equivalent or successor; and

(2) automatic location information or its functional equivalent or successor;

for reporting police, fire, medical, or other emergency situations.

(b) The term includes both Phase I and Phase II enhanced 911 services, as described in 47 CFR 20.18.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-10**

**"Exchange access facility"**

Sec. 10. (a) As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.

(b) Regardless of technology, the term includes:

- (1) an access line;
- (2) a private branch exchange; (PBX) trunk; and
- (3) a centrex line trunk equivalent;

that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier.

(c) The term does not include:

- (1) a service supplier owned and operated telephone pay station line;
- (2) a wide area telecommunications service (WATS) line;
- (3) a foreign exchange (FX) line;
- (4) an incoming only line; or
- (5) the provision of broadband Internet access service.

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.6.*

**IC 36-8-16.7-11**

**"Executive director"**

Sec. 11. As used in this chapter, "executive director" refers to the executive director of the board.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-12**

**"Fund"**

Sec. 12. As used in this chapter, "fund" refers to the statewide 911 fund established by section 29 of this chapter.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-13**

**"Interconnected VOIP service"**

Sec. 13. As used in this chapter, "interconnected VOIP service" has the meaning set forth in 47 CFR 9.3.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-14**

**"Local exchange carrier"**

Sec. 14. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-15**

**"Multiline telephone system"**

Sec. 15. As used in this chapter, "multiline telephone system" means a voice communications service system that includes the following:

- (1) Common control units.
- (2) Telephone sets.
- (3) Control hardware and software.
- (4) Adjunct systems.

The term includes network and premises based systems as classified by FCC Part 68 (47 CFR part 68) Requirements.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-16**

**"Place of primary use"**

Sec. 16. As used in this chapter, "place of primary use" means the street address representative of where a customer's use of communications service primarily occurs, which must be:

- (1) the residential street address or the primary business street address of the customer or, in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3);
- (2) within the licensed service area of the customer's provider; and
- (3) in the case of:
  - (A) mobile communications service, determined in the manner provided in IC 6-8.1-15; and
  - (B) nonmobile communications service, determined in the manner provided in IC 6-2.5-12.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-17**

**"Prepaid user"**

Sec. 17. As used in this chapter, "prepaid user" has the meaning set forth in IC 36-8-16.6-6.

*As added by P.L.132-2012, SEC.20.*

**IC 36-8-16.7-18**

**"Proprietary information"**

Sec. 18. As used in this chapter, "proprietary information" includes the following:

- (1) Customer lists and related information, including information subject to protection under 47 U.S.C. 222.
- (2) Technology descriptions, technical information, or trade secrets (as defined in IC 24-2-3-2).
- (3) Information that:
  - (A) concerns the actual or developmental costs of 911 systems; and
  - (B) is developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or

agents.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-19**

##### **"Provider"**

Sec. 19. (a) As used in this chapter, "provider" means a person or entity, or an affiliate of a person or an entity, that:

- (1) offers communications service to users in Indiana; and
- (2) provides, or is required by the Federal Communications Commission to provide, a user with direct access to a PSAP through the placement of a 911 communication.

(b) The term includes the following:

- (1) Facilities based and nonfacilities based resellers of communications service.
- (2) Any other provider of communications service through wireline or wireless means, regardless of whether the provider is subject to regulation by the Indiana utility regulatory commission.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-20**

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

Sec. 20. As used in this chapter, "PSAP" refers to a public safety answering point:

- (1) that operates on a twenty-four (24) hour basis; and
- (2) whose primary function is to receive incoming requests for emergency assistance and relay those requests to an appropriate responding public safety agency.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-21**

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

Sec. 21. As used in this chapter, "standard user" or "user" refers to:

- (1) a communications service user who pays retrospectively for the service and has an Indiana billing address for the service; and
- (2) in the case of a nonmobile communications service user, an exchange access facility used in Indiana.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-22**

##### **"Statewide 911 system"**

Sec. 22. (a) As used in this chapter, "statewide 911 system" means a communications system that uses the three (3) digit number 911 to send:

- (1) automatic number identification or its functional equivalent or successor; and
- (2) automatic location information or its functional equivalent

or successor;  
for reporting police, fire, medical, or other emergency situations.

(b) The term includes the following:

(1) A wireless 911 emergency telephone system funded under IC 36-8-16.5 (before its repeal on July 1, 2012).

(2) An emergency notification system.

(c) The term does not include a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-23**

#### **"VOIP provider"**

Sec. 23. As used in this chapter, "VOIP provider" means a provider that offers interconnected VOIP service to users in Indiana.

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-24**

#### **Statewide 911 board; establishment; recommendations to governor; membership; state treasurer as chair; terms; residency; proxy voting prohibited**

Sec. 24. (a) The statewide 911 board is established to develop, implement, and oversee the statewide 911 system. 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:

(A) the Indiana chapter of the National Emergency Number Association (NENA); and

(B) the Indiana chapter of the Association of Public Safety Communication Officials International (APCO);

shall jointly recommend three (3) individuals, at least one (1) of whom must have budget experience at the local level.

(2) The facilities based CMRS providers authorized to provide CMRS in Indiana shall jointly recommend one (1) individual.

(3) The Indiana Association of County Commissioners shall recommend one (1) individual who is a county commissioner in Indiana.

(4) The Indiana Sheriffs' Association shall recommend one (1) individual who is a county sheriff in Indiana.

(5) The Indiana Telecommunications Association shall recommend two (2) individuals as follows:

(A) One (1) individual representing a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana.

(B) One (1) individual representing a local exchange carrier that serves at least fifty thousand (50,000) local exchange

access lines in Indiana.

(6) The Indiana Cable Telecommunications Association shall recommend one (1) individual representing a VOIP provider.

(7) The Indiana Association of Cities and Towns shall recommend one (1) individual representing municipalities.

(c) The board consists of the following fifteen (15) 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 considering the recommendations submitted under subsection (b)(1) by the executive committees of NENA and APCO. At least one (1) member appointed under this subdivision must have budget experience at the local level.

(3) One (1) facilities based CMRS member who is appointed by the governor after considering the recommendation submitted under subsection (b)(2) by the facilities based CMRS providers authorized to provide CMRS in Indiana. A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (6), (7), or (8).

(4) One (1) county commissioner member appointed by the governor after considering the recommendation submitted under subsection (b)(3) by the Indiana Association of County Commissioners.

(5) One (1) county sheriff member appointed by the governor after considering the recommendation submitted under subsection (b)(4) by the Indiana Sheriffs' Association.

(6) One (1) member who represents a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(A). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (7), or (8).

(7) One (1) member who represents a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(B). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (8).

(8) One (1) member who represents a VOIP provider and who is appointed by the governor after considering the

recommendation of the Indiana Cable Telecommunications Association under subsection (b)(6). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (7).

(9) One (1) member who represents municipalities and is appointed by the governor after considering the recommendation of the Indiana Association of Cities and Towns submitted under subsection (b)(7).

(10) The state fire marshal or the state fire marshal's designee.

(11) The superintendent of the state police department or the superintendent's designee.

(12) The executive director of the department of homeland security, or the executive director's designee. The executive director of the department of homeland security or the executive director's designee is a nonvoting member of the board.

(13) The state GIS officer. The state GIS officer is a nonvoting member of the board.

(d) This subsection applies to a member appointed by the governor under subsection (c)(2) through (c)(9). The governor shall ensure that the terms of the initial members appointed by the governor are staggered so that the terms of not more than five (5) members expire in a single calendar year. After the initial appointments, subsequent appointments shall be for three (3) year terms. A vacancy on the board shall be filled for the vacating member's unexpired term in the same manner as the original appointment, and a member of the board is eligible for reappointment. In making an appointment under subsection (c)(2) through (c)(9), the governor shall take into account the various geographical areas of Indiana, including rural and urban areas. A member appointed by the governor serves at the pleasure of the governor.

(e) A member must be a resident of Indiana.

(f) A member may not vote by proxy.

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.7.*

### **IC 36-8-16.7-25**

#### **Board quorum; meetings subject to open door law**

Sec. 25. A majority of the voting members of the board constitutes a quorum for the purposes of taking action. A meeting of the board is subject to IC 5-14-1.5.

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.8.*

### **IC 36-8-16.7-26**

#### **Board members; expense reimbursement**

Sec. 26. (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.132-2012, SEC.20.*

### **IC 36-8-16.7-27**

#### **Powers of board; contracts for communications service and equipment; Indiana transparency Internet web site**

Sec. 27. (a) The board may do the following to implement this chapter:

- (1) Sue and be sued.
- (2) Adopt and alter an official seal.
- (3) Adopt and enforce bylaws and rules for:
  - (A) the conduct of board business; and
  - (B) the use of board services and facilities.
- (4) Subject to subsection (c), acquire, hold, use, and otherwise dispose of the board's income, revenues, funds, and money.
- (5) Subject to subsections (b) and (c), enter into contracts, including contracts:
  - (A) for professional services;
  - (B) for purchase of supplies or services; and
  - (C) to acquire office space.
- (6) Subject to subsection (c), hire staff.
- (7) Adopt rules under IC 4-22-2 to implement this chapter.
- (8) Develop, maintain, and update a statewide 911 plan.
- (9) Subject to subsection (c), administer the statewide 911 fund established by section 29 of this chapter.
- (10) Administer and distribute the statewide 911 fee in accordance with section 37 of this chapter.
- (11) Subject to subsection (c), administer statewide 911 grants in accordance with state and federal guidelines.
- (12) Obtain from each PSAP operating statistics and other performance measurements, including call statistics by category and emergency medical dispatching (EMD) certifications.
- (13) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.

(b) A contract for the purchase of communications service or equipment by the board must be awarded through an invitation for bids or a request for proposals as described in IC 5-22. The board shall enter into a cooperative agreement with the Indiana department of administration for the department to administer the board's purchases under this chapter using the department's purchasing

agents.

(c) The board shall be considered a state agency for purposes of IC 5-14-3.5. Subject to IC 5-14-3.5-4, the following shall be posted to the Indiana transparency Internet web site in accordance with IC 5-14-3.5-2:

- (1) Expenditures by the board, including expenditures for contracts, grants, and leases.
- (2) The balance of the statewide 911 fund established by section 29 of this chapter.
- (3) A listing of the board's real and personal property that has a value of more than twenty thousand dollars (\$20,000).

The board shall cooperate with and provide information to the auditor of state as required by IC 5-14-3.5-8.

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-28**

#### **Executive director; duties; salary**

Sec. 28. (a) The board shall appoint an executive director of the board to do the following:

- (1) Administer, manage, and direct employees of the board.
- (2) Approve salaries and allowable expenses for board members, employees, and consultants.
- (3) Attend board meetings and record all proceedings of the board. However, the executive director is not considered a member of the board for any purpose, including voting or establishing a quorum.
- (4) Maintain books, documents, and papers filed with the board, including minutes.
- (5) Perform other duties as directed by the board.

(b) The board shall determine the salary and other compensation of the executive director.

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-29**

#### **Statewide 911 fund; investments; money not subject to transfer, reversion, or reassignment; money continuously appropriated**

Sec. 29. (a) The statewide 911 fund is established for the purposes of creating and maintaining a uniform statewide 911 system. The board shall administer the fund. The expenses of administering the fund must be paid from money in the fund.

(b) The fund consists of the following:

- (1) The statewide 911 fee assessed on users under section 32 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.
- (6) Money from any other source that is deposited in or

transferred to the fund.

(c) The treasurer of state may invest money in the fund in the same manner as other funds of the state may be invested under IC 5-13.

(d) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money in the fund:

(1) does not revert at the end of any state fiscal year but remains available for the purposes of the fund in subsequent state fiscal years, notwithstanding IC 4-13-2-19 or any other law; and

(2) is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by:

(A) the state board of finance notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or

(B) the budget agency or any other state agency notwithstanding IC 4-12-1-12 or any other law.

(e) Money in the fund is continuously appropriated for the purposes of the fund.

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-30**

#### **State board of accounts audit; board review of 911 service**

Sec. 30. (a) The state board of accounts shall audit the fund to determine whether the fund is being managed in accordance with this chapter.

(b) In conjunction with the board's review under section 38(d) of this chapter of the state board of accounts' audit of PSAPs, the board shall review 911 service in Indiana, including the collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. The purpose of the review is to ensure that the statewide 911 fee:

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

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

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.9; P.L.181-2015, SEC.50.*

### **IC 36-8-16.7-31**

#### **Use of third party to process checks and distribute funds**

Sec. 31. The board may retain an independent, third party accounting firm or fiscal agent for purposes of processing checks and distributing funds as directed by the board and as allowed by this chapter. The board shall pay for these services as an administrative cost of the board.

*As added by P.L.132-2012, SEC.20.*

### **IC 36-8-16.7-32**

#### **Monthly statewide 911 fee; initial fee; adjustments; additional fees prohibited; exemptions**

Sec. 32. (a) Except as provided in subsections (c) and (e), and subject to subsection (b) and section 48(e) of this chapter, the board

shall assess a monthly statewide 911 fee on each standard user that is a customer having a place of primary use in Indiana at a rate that:

- (1) ensures full recovery of the amount needed for the board to make distributions to county treasurers consistent with this chapter; and
- (2) provides for the proper development, operation, and maintenance of a statewide 911 system.

Except as provided in subsection (g), the amount of the fee assessed under this subsection is one dollar (\$1).

(b) The board may adjust the statewide 911 fee to ensure adequate revenue for the board to fulfill the board's duties and obligations under this chapter, subject to the following:

- (1) The following apply to an increase in the fee:
  - (A) The board may increase the fee only one (1) time after June 30, 2015, and before July 1, 2020.
  - (B) The board may increase the fee only after review by the budget committee.
  - (C) If the board increases the fee, the amount of the increase must be ten cents (\$0.10).

(2) The fee may not be lowered more than one (1) time in a calendar year.

(3) The fee may not be lowered by an amount that is more than ten cents (\$0.10) without legislative approval.

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

(d) An additional fee relating to the provision of 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.

(e) A user is exempt from the 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.
- (4) A user that accesses communications service solely through a wireless data only service plan.

(f) This subsection applies to a provider that is designated by the Indiana utility regulatory commission as an eligible telecommunications carrier for purposes of receiving reimbursement from the universal service fund through the administrator designated by the Federal Communications Commission. A provider:

- (1) is not considered an agency of the federal government for purposes of the exemption set forth in subsection (e); and
- (2) with respect to communications service provided to end users by the provider in its capacity as an eligible telecommunications carrier, is liable for the statewide 911 fee

assessed under subsection (g).

(g) A provider described in subsection (f) shall pay to the board the following fees:

(1) Not later than August 1, 2015, a fee equal to the product of the following factors:

(A) The monthly statewide 911 fee established under subsection (a).

(B) The number of unique end users for which the provider received reimbursement from the universal service fund during the immediately preceding month.

(C) The number of months under the current service agreement between each end user described in clause (B) and the provider for which the provider has received reimbursement from the universal service fund before August 1, 2015.

(2) Beginning September 1, 2015, and on the first day of each month thereafter, a monthly statewide 911 fee equal to the product of the following factors:

(A) The monthly statewide 911 fee established under subsection (a).

(B) The number of unique end users for which the provider received reimbursement from the universal service fund during the immediately preceding month.

The provider may bill and collect from each end user the fees calculated under this subdivision with respect to the end user. The provider shall determine the manner in which the provider bills and collects the fees. A provider may not bill and collect from an end user an amount greater than the fees paid by the provider to the board with respect to the end user.

*As added by P.L.132-2012, SEC.20. Amended by P.L.107-2014, SEC.7; P.L.157-2015, SEC.10.*

### **IC 36-8-16.7-33**

#### **Provider's duty to collect and remit fee; report to board; cost reimbursement**

Sec. 33. (a) As part of the provider's normal monthly billing process, a provider:

(1) shall collect the fee from each standard user that is a customer having a place of primary use in Indiana; and

(2) may list the fee as a separate line item on each bill.

If a provider receives a partial payment for a monthly bill from a standard user, the provider shall apply the payment against the amount the standard user owes to the provider before applying the payment against the fee. A provider may not prorate the monthly 911 fee collected from a user.

(b) Subject to subsection (c), a provider shall remit statewide 911 fees collected under this section to the board at the time and in the manner prescribed by the board. However, the board shall require a provider to report to the board, no less frequently than on an annual

basis, the amount of fees collected from all of the provider's customers described in subsection (a)(1) and remitted to the board under this section. The board may require a provider to submit a report required under this subsection at the same time that the provider remits fees to the board under this section. The board shall deposit all remitted statewide 911 fees in the fund.

(c) A provider may deduct and retain an amount not to exceed one percent (1%) of statewide 911 fees that the provider collects from users to reimburse the direct costs incurred by the provider in collecting and remitting statewide 911 fees.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-34**

##### **User's liability for fee; provider's obligation to remit fees collected**

Sec. 34. The statewide 911 fee is the liability of the user and not of a provider. However, a provider is liable to remit to the board all statewide 911 fees that the provider collects from users.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-35**

##### **Fee not to be included in base for taxes and other charges**

Sec. 35. The amount of a statewide 911 fee that is collected by a provider from a user, whether separately stated on an invoice, receipt, or other document, may not be included in the base for measuring any tax, surcharge, or other charge that is imposed by the state, a political subdivision, or other government agency.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-36**

##### **Provider not required to enforce fee collection; collection action by board**

Sec. 36. A provider is not required to take legal action to enforce the collection of the 911 fee for which a user is billed. However, the board may initiate a collection action. A court finding for the board in the action may award reasonable costs and attorney fees associated with the collection action.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-37**

##### **Board's administration of fund; board's expenses; distribution to counties**

Sec. 37. (a) Subject to subsection (b), the board shall administer the fund in the following manner:

- (1) In each state fiscal year, the board may retain the lesser of:
  - (A) ten percent (10%) of the statewide 911 fees deposited in the fund in the previous state fiscal year; or
  - (B) the amount of fees deposited in the fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal

year for which the fees are retained;  
to pay the board's expenses in administering this chapter and to develop, operate, and maintain a statewide 911 system. The board may decrease the amount of fees retained by the board under this subdivision.

(2) After retaining the amount set forth in subdivision (1), the board shall distribute to the counties the remainder of the statewide 911 fees in the fund. With respect to any state fiscal year beginning after June 30, 2015, the board shall first ensure a distribution to each county in an amount that is equal to the total amount of statewide 911 fees distributed to the county during the fiscal year ending June 30, 2014.

(3) If any statewide 911 fees remain in the fund after the distributions ensured under subdivision (2), the board shall distribute the fees as follows:

(A) Ninety percent (90%) of the fees shall be distributed to the counties based upon each county's percentage of the state's population.

(B) Ten percent (10%) of the fees shall be distributed equally among the counties.

(b) The board may not distribute money in the fund in a manner that impairs the ability of the board to fulfill its management and administrative obligations under this chapter.

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.11.*

### **IC 36-8-16.7-38**

#### **PSAP use of distributions; annual report to board; audits**

Sec. 38. (a) A PSAP may use a distribution from a county under this chapter only for the following:

(1) The lease, purchase, or maintenance of communications service equipment.

(2) Necessary system hardware and software and data base equipment.

(3) Personnel expenses, including wages, benefits, training, and continuing education, only to the extent reasonable and necessary for the provision and maintenance of:

(A) the statewide 911 system; or

(B) a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).

(4) Operational costs, including costs associated with:

(A) utilities;

(B) maintenance;

(C) equipment designed to provide backup power or system redundancy, including generators; and

(D) call logging equipment.

(5) An emergency notification system that is approved by the board under section 40 of this chapter.

(6) Connectivity to the Indiana data and communications system

(IDACS).

(7) Rates associated with communications service providers' enhanced emergency communications system network services.

(8) Mobile radio equipment used by first responders, other than radio equipment purchased under subdivision (9) as a result of the narrow banding requirements specified by the Federal Communications Commission.

(9) Up to fifty percent (50%) of the costs associated with the narrow banding or replacement of radios or other equipment as a result of the narrow banding requirements specified by the Federal Communications Commission.

(b) A PSAP may not use a distribution from a county under this chapter for the following:

(1) The construction, purchase, renovation, or furnishing of PSAP buildings.

(2) Vehicles.

(c) Not later than January 31 of each year, each PSAP shall submit to the board a report of the following:

(1) All expenditures made during the immediately preceding calendar year from distributions under this chapter.

(2) Call data and statistics for the immediately preceding calendar year, as specified by the board and collected in accordance with any reporting method established or required by the board.

(3) All costs associated with dispatching appropriate public safety agencies to respond to 911 calls received by the PSAP.

(4) All funding sources and amounts of funding used for costs described in subdivision (3).

(d) The state board of accounts shall audit the expenditures of distributions under this chapter by each PSAP that receives distributions under this chapter. In conducting an audit under this subsection, the state board of accounts shall determine, in conjunction with the board, whether the expenditures made by each PSAP are in compliance with subsections (a) and (b). The board shall review and further audit any ineligible expenditure identified by the state board of accounts under this subsection or through any other report. If the board verifies that the expenditure did not comply with this section, the board shall ensure that the fund is reimbursed in the dollar amount of the noncomplying expenditure from any source of funding, other than a fund described in subsection (e), that is available to the PSAP or to a unit in which the PSAP is located.

(e) A distribution under section 37(a)(2) of this chapter must be deposited by the treasurer of the county in a separate fund set aside for the purposes allowed by subsections (a) and (b). The fund must be known as the \_\_\_\_\_ (insert name of county) 911 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 subsection.



(f) Not later than November 1 of each year, the board shall provide in an electronic format under IC 5-14-6 to the general assembly the information submitted under subsection (c)(3) and (c)(4).

*As added by P.L.132-2012, SEC.20. Amended by P.L.157-2015, SEC.12; P.L.181-2015, SEC.51.*

#### **IC 36-8-16.7-38.5**

##### **Advance payment of certain expenses; reimbursement**

Sec. 38.5. (a) This section applies to a political subdivision that operates a PSAP.

(b) Notwithstanding any other law, the fiscal body of a political subdivision may adopt an ordinance to authorize payment in advance of all or part of the cost of:

(1) the lease, purchase, or maintenance of communications service equipment; and

(2) rates associated with a communications service provider's enhanced emergency communications system network services; from any legally available fund of the political subdivision, including the political subdivision's rainy day fund.

(c) If a political subdivision makes a payment in advance under this section, the political subdivision shall reimburse the fund from which the advance payment was made.

*As added by P.L.157-2015, SEC.13.*

#### **IC 36-8-16.7-39**

##### **Providers' duty to coordinate with board and provide information; board's use of confidential information**

Sec. 39. (a) In cooperation with the board, a provider shall designate a person to coordinate with and provide all relevant information to the board to assist the board in carrying out its duties under this chapter.

(b) A provider shall provide the automatic number identification and any other information, including updates, required by the board to the county, the municipality, an authorized agent of a county or municipality, or the board or the board's authorized agent for purposes of establishing and maintaining a 911 system data base. The board may use confidential information received under this subsection solely for the purpose of providing statewide 911 service.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-40**

##### **Emergency notification systems; establishment by county; board approval required; provider's duty to provide user data**

Sec. 40. (a) As used in this section, "emergency notification system" means an enhanced 911 system capability that provides communications service users within the territory served by a PSAP with a warning, delivered through a device or medium by which users receive communications service from a provider, of an emergency situation through a computerized warning system that uses 911 data

base information and technology.

(b) With approval of the board, a county may establish an emergency notification system. If the board approves the establishment of an emergency notification system in a county, a PSAP in the county may use funds distributed to it under this chapter to establish and operate an emergency notification system under this section.

(c) A provider shall provide to a PSAP the necessary user data to enable the PSAP to implement an emergency notification system under this section. The provision of data under this subsection is subject to section 41 of this chapter. In providing data under this subsection, the provider shall provide the following information for each service user in the PSAP's service territory:

- (1) The service address of the user.
- (2) The class of service provided to the user.
- (3) A designation of listed, unlisted, or nonpublished with respect to any telephone number (or other functionally equivalent identification number) associated with the user's service or account.

The provider shall provide this data to the PSAP on a quarterly basis. The provider may charge a reasonable fee to the PSAP for the administrative costs of providing the data.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-41**

##### **Providers' duty to provide user data to PSAPs; permissible uses by PSAP; violations; contracts between providers and users**

Sec. 41. (a) A provider shall, upon request, provide to a PSAP the necessary user data to enable the PSAP to implement and operate a 911 system. User data provided to a PSAP for the purpose of implementing or updating a 911 system may be used only to identify:

- (1) a user;
- (2) a user's place of primary use; or
- (3) the information described in both subdivisions (1) and (2);

and may not be used or disclosed by the PSAP, or its agents or employees, for any other purpose unless the data is used or disclosed under a court order. A person who recklessly, knowingly, or intentionally violates this subsection commits a Class A misdemeanor.

(b) After May 31, 1988, a contract entered into between a provider and a user who has an unlisted or nonpublished telephone number (or other functionally equivalent identification number) may not include a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base. A provider (other than a provider who, before June 1, 1988, has contracted to not divulge a subscriber's unlisted or nonpublished telephone number (or other functionally equivalent identification number)) shall provide a requesting PSAP with the name, telephone

number (or other functionally equivalent identification number), and place of primary use for each user of the provider. A PSAP may not release a telephone number (or other functionally equivalent identification number) required to be provided under this subsection to any person except as provided in subsection (a).

- (c) A provider may amend or terminate a contract with a user if:
- (1) the contract contains a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base;
  - (2) the exclusion of the telephone number (or other functionally equivalent identification number) from the data base would negate the purpose of this chapter; and
  - (3) the user is notified of the proposed amendment or termination of a contract at least one hundred eighty (180) days before the provider takes action.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-42**

##### **Confidentiality of proprietary information**

Sec. 42. (a) All proprietary information submitted to the board or the treasurer of state, or to the budget committee under section 48 of this chapter, 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 provider without the permission of the submitting 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 provider.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-43**

##### **Immunity from civil or criminal liability**

Sec. 43. Notwithstanding any other law:

- (1) the board;
- (2) a PSAP;
- (3) a political subdivision;
- (4) a provider;
- (5) an employee, director, officer, or agent of a PSAP, a political subdivision, or a provider; or
- (6) an employee or member of the board, the board chair, the executive director, or an employee, agent, or 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 911

service, except in the case of willful or wanton misconduct.  
*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-44**

##### **Permissible uses of 911 service**

Sec. 44. A person may not use 911 service except to make emergency calls that may result in the 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.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-45**

##### **Automatic dialing of 911 prohibited; violations**

Sec. 45. (a) This section does not apply to a person that connects to a 911 network using automatic crash notification technology subject to an established protocol.

(b) A person may not connect to a 911 network an automatic alarm, automatic dialer, or other automated alerting device that:

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

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

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-46**

##### **Knowing or intentional placement of 911 calls for prohibited purposes**

Sec. 46. A person who knowingly or intentionally places a 911 call:

- (1) for a purpose other than obtaining public safety assistance or emergency services; or
- (2) to avoid communications service charges or fees;

commits a Class A misdemeanor.

*As added by P.L.132-2012, SEC.20.*

#### **IC 36-8-16.7-47**

##### **Counties prohibited from containing more than two PSAPs after December 31, 2014; exceptions; interlocal agreements; parties; required plans and protocols; noncomplying counties; distributions of fees prohibited**

Sec. 47. (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:

- (1) by a state educational institution;
- (2) by an airport authority established for a county having a consolidated city; or
- (3) in a county having a consolidated city, by 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.

(i) After December 31, 2014, if a county contains more than the number of PSAPs authorized by subsection (c), the county may not receive a distribution under section 37 of this chapter until the county complies with subsection (c). The board shall hold distributions in reserve until the county complies with subsection (c). A county is not entitled to any interest on any funds held by the board under this chapter.

*As added by P.L.132-2012, SEC.20. Amended by P.L.213-2015, SEC.267.*

#### **IC 36-8-16.7-48**

#### **Budget committee's review of statewide 911 system; considerations; report of findings to legislative council; recommendation on continuation of fee after June 30, 2015; expiration of fee absent recommendation**

Sec. 48. (a) The budget committee shall review the statewide 911 system governed by this chapter for the two (2) calendar years ending:

(1) December 31, 2013; and

(2) December 31, 2014.

(b) In conducting the review required by this section, the budget committee may examine the following:

(1) Whether the fund is being administered by the board in accordance with this chapter. In performing a review under this subdivision, the budget committee may consider the audit reports submitted to the budget committee by the state board of accounts under section 30(a) of this chapter.

(2) The collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. In performing a review under this subdivision, the budget committee may:

(A) examine whether the statewide 911 fee:

(i) is being assessed in an amount that is reasonably necessary to provide adequate and efficient 911 service;

and

(ii) is being used only for the purposes set forth in this chapter; and

(B) consider:

(i) the reports submitted to the budget committee by the board under section 30(c) of this chapter; and

(ii) the audit reports submitted to the budget committee by the state board of accounts under section 38(e) of this chapter.

(3) The report submitted to the budget committee by the Indiana advisory commission on intergovernmental relations under IC 4-23-24.2-5(b).

(4) Any other data, reports, or information the budget committee determines is necessary to review the statewide 911 system governed by this chapter.

(c) Subject to section 42 of this chapter, the board, the state board of accounts, political subdivisions, providers, and PSAPs shall provide to the budget committee all relevant data, reports, and information requested by the budget committee to assist the budget committee in carrying out its duties under this section.

(d) After conducting the review required by this section, the budget committee shall, not later than June 1, 2015, report its findings to the legislative council. The budget committee's findings under this subsection:

(1) must include a recommendation as to whether the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015; and

(2) if the budget committee recommends under subdivision (1) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, may include recommendations for the introduction in the general assembly of any legislation that the budget committee determines is necessary to ensure that the statewide 911 system governed by this chapter is managed in a fair and fiscally prudent manner.

A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) If the budget committee does not recommend in its report under subsection (d) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, the statewide 911 fee assessed under section 32 of this chapter expires July 1, 2015, and may not be assessed or collected after June 30, 2015.

*As added by P.L.132-2012, SEC.20.*