

1 AN ACT relating to the apportionment of money in the CMRS fund.

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

3 ➔Section 1. KRS 65.7621 is amended to read as follows:

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

- 5 (1) "Administrator" means the person who serves as the state 911 coordinator, the
6 executive director of the Kentucky 911 Services Board, and the state administrator
7 of CMRS emergency telecommunications under KRS 65.7625;
- 8 (2) "Automatic location identification", or "ALI" means a feature by which the location
9 or estimated location of the calling party is made available to a PSAP in accordance
10 with applicable FCC rules and regulations;
- 11 (3) "Automatic number identification", or "ANI" means a feature that allows for the
12 automatic display of the 911 caller's ten-digit number, or equivalent, in accordance
13 with applicable FCC rules and regulations;
- 14 (4) **"Board" means the Kentucky 911 Services Board;**
- 15 **(5)** "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d)
16 of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and
17 the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993.
18 The term includes the term "wireless" and service provided by any wireless real
19 time two-way voice communication device, including radio-telephone
20 communications used in cellular telephone service, personal communications
21 service, and the functional or competitive equivalent of a radio-telephone
22 communications line used in cellular telephone service, a personal communications
23 service, or a network radio access line;
- 24 ~~[(5) "Board" means the Kentucky 911 Services Board;]~~
- 25 (6) "CMRS connection" means a mobile handset telephone number assigned to a
26 CMRS customer;
- 27 (7) "CMRS customer" means an end user to whom a mobile handset telephone number

1 is assigned and to whom CMRS is provided in return for compensation;

2 (8) "CMRS Fund" means the commercial mobile radio service emergency
3 telecommunications fund;

4 (9) "CMRS provider" means a person or entity who provides CMRS to an end user.
5 The term includes both facilities-based resellers and nonfacilities-based resellers;

6 (10) "CMRS service charges" means the CMRS postpaid service charge, the CMRS
7 prepaid service charge, and the CMRS service charge fee levied under KRS
8 65.7636;

9 (11) "CMRS postpaid service charge" means the CMRS emergency telephone service
10 charge fee levied under KRS 65.7629(3) and collected under KRS 65.7635;

11 (12) "CMRS prepaid service charge" means the fee imposed on prepaid wireless
12 telecommunications service under KRS 65.7634 and collected under KRS 142.100
13 to 142.135;

14 (13) "Core services" or "next generation core services":

15 (a) Means the base set of services needed to process a 911 service request
16 within a next generation 911 environment;

17 (b) Is limited to the functional elements essential to routing emergency calls
18 based on location information through a managed emergency services
19 Internet protocol network infrastructure; and

20 (c) Includes only the services, and not the network on which they operate;

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

24 (15)~~(14)~~ "Local exchange carrier" or "LEC" means any person or entity who is
25 authorized to provide telephone exchange service or exchange access in the
26 Commonwealth;

27 (16)~~(15)~~ "Local government" means any city, county, charter county, or urban-county

1 government of the Commonwealth, or any other governmental entity maintaining a
2 PSAP;

3 (17)~~(16)~~ "Mobile telephone handset telephone number" means the ten (10) digit
4 number assigned to a CMRS connection;

5 (18)~~(17)~~ "Next generation 911" means a 911 system where any device capable of
6 making a 911 emergency request uses digital technology through managed
7 emergency services Internet protocol networks composed of functional elements
8 and databases that replicate enhanced 911 features and functions while providing
9 additional multimedia capabilities for the PSAP. "Next generation 911" includes
10 any technology, functions, capabilities, best practices, or processes, either currently
11 existing or later developed, that will be used during and after the transition of the
12 delivery of 911 services from analog to digital technology;

13 (19)~~(18)~~ "Prepaid wireless telecommunications service" means a wireless
14 telecommunications service that, if purchased, is required to be paid for in advance
15 and is either sold in predetermined units, dollars, or time which decline with use in
16 a known amount, or is sold for unlimited use during a predetermined period of time;
17 "Prepaid wireless telecommunications service" includes service provided by prepaid
18 wireless providers approved as eligible telecommunications companies by the
19 Kentucky Public Service Commission to participate in the wireless low-income
20 Lifeline program;

21 (20)~~(19)~~ "Prepaid wireless telecommunications service provider" means a person or
22 entity that provides prepaid wireless telecommunications service as authorized by a
23 license issued by the FCC;

24 (21)~~(20)~~ "Proprietary information" means information, including customer lists and
25 other related information, technology descriptions, technical information, or trade
26 secrets;

27 (22)~~(21)~~ "Pseudo-automatic number identification" means a wireless enhanced 911

1 service capability that enables the automatic display of the number of the cell site or
2 cell face;

3 (23)~~[(22)]~~ "Public safety answering point" or "PSAP" means a communications facility
4 that is assigned the responsibility to receive 911 calls originating in a given area
5 and, as appropriate, to dispatch public safety services or to extend, transfer, or relay
6 911 calls to appropriate public safety agencies;

7 (24)~~[(23)]~~ "Purchaser" means a person who purchases prepaid wireless
8 telecommunications service in a retail transaction;

9 (25)~~[(24)]~~ "Retail transaction" means the purchase of prepaid wireless
10 telecommunications service from a retailer for any purpose other than resale;

11 (26)~~[(25)]~~ "Retailer" means a person who sells prepaid wireless telecommunications
12 service to any person for a purpose other than resale;

13 (27)~~[(26)]~~ "Service connection" means the transmission, conveyance, or routing of voice,
14 data, video, text, or any other information signal of the purchaser's choosing by any
15 medium or method now in existence or later devised with the ability to directly
16 connect the user to 911 emergency services;

17 (28)~~[(27)]~~ "Service supplier" means a person or entity who provides local exchange
18 telephone service to a telephone subscriber;

19 (29)~~[(28)]~~ **"Tier III CMRS provider" means a non-nationwide commercial mobile**
20 **radio service provider with no more than five hundred thousand (500,000)**
21 **subscribers as of December 31, 2001; and**

22 (30) "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911
23 service," or "wireless E911 service" means an emergency telephone system that
24 provides the end user of the CMRS connection with wireless 911 service and, in
25 addition, directs 911 calls to appropriate public safety answering points based on the
26 geographical location from which the call originated and provides the capability for
27 automatic number identification and automatic location identification features in

1 accordance with the requirements of the FCC order~~]; and~~
2 ~~(29) "Tier III CMRS provider" means a non-nationwide Commercial Mobile Radio~~
3 ~~Service provider with no more than five hundred thousand (500,000) subscribers as~~
4 ~~of December 31, 2001].~~

5 ➔ Section 2. KRS 65.7631 is amended to read as follows:

6 (1) The moneys in the CMRS fund shall be apportioned among the approved uses of
7 the fund as specified in this section. The board shall make individual disbursements
8 from the fund upon such terms and conditions necessary in view of the amount of
9 revenues on deposit at the time each request for disbursement is reviewed and
10 approved.

11 (2) Not more than two and one-half percent (2.5%) of the total monthly revenues
12 deposited into the CMRS fund shall be disbursed or reserved for disbursement by
13 the board to pay the administrative costs and expenses incurred in the operation of
14 the board in carrying out the functions and duties set forth in KRS 65.7621 to
15 65.7643.

16 (3) **(a) Prior to August 1, 2022,** two and one-half percent (2.5%) of the total monthly
17 revenues deposited into the CMRS fund shall be used solely for the purpose of
18 establishing or maintaining statewide ~~[next-generation]~~ 911 initiatives to assist
19 with the adoption and operation of next generation 911 services and
20 applications. Fund disbursements shall be limited to equipment, hardware,
21 software, or contracted services used in the preparation for, or delivery of,
22 next generation 911 **systems and services:**

23 **(b) On and after August 1, 2022, and before July 1, 2024, the rate shall be five**
24 **percent (5%); and**

25 **(c) On and after July 1, 2024, the rate shall be two and one-half percent (2.5%).**

26 (4) **(a) Prior to August 1, 2022,** ten percent (10%) of the total monthly revenues
27 deposited into the CMRS fund shall be disbursed or reserved for disbursement

1 to provide direct grants, matching money, or funds to PSAPs as determined by
2 the Kentucky 911 Services Board:

3 ~~1.[(a)]~~ For the establishment and improvement of 911 services in the
4 Commonwealth, including the implementation of next generation 911
5 capacity;

6 ~~2.[(b)]~~ For incentives to create more efficient delivery of 911 services by
7 local governments receiving funding under subsection (5) of this
8 section; **and**

9 ~~3.[(c)] For improvement of 911 infrastructure by Tier III wireless providers~~
10 ~~receiving funding under this section; and~~

11 ~~(d)—~~For consolidation reimbursement of two hundred thousand dollars (\$200,000)
12 per PSAP, not to exceed four hundred thousand dollars (\$400,000) per county,
13 to any PSAP that consolidates with a CMRS-certified PSAP, or creates a
14 newly consolidated Phase II compliant PSAP. Funds shall be applied toward
15 the cost of consolidating. If a PSAP consolidates and receives reimbursement,
16 the Kentucky 911 Services Board shall not certify a new PSAP within the
17 same county for a period of ten (10) years;

18 **(b) On and after August 1, 2022, and before July 1, 2024, the rate shall be**
19 **seven and one-half percent (7.5%); and**

20 **(c) On and after July 1, 2024, the rate shall be ten percent (10%).**

21 When the balance of money collected under this subsection and not yet obligated
22 for permitted uses exceeds **two million five hundred thousand dollars**
23 **(\$2,500,000)**~~three million dollars (\$3,000,000)]~~ in any fiscal year, the excess
24 amount shall be allocated under subsection (5) of this section.

25 (5) The balance of the total monthly revenues deposited into the CMRS fund after the
26 amounts disbursed or reserved for disbursement under subsections (2), (3), and (4)
27 of this section have been subtracted shall be distributed to PSAPs eligible to receive

1 disbursement from the CMRS fund under subsection (6) of this section who actually
2 request disbursement, as follows:

- 3 (a) Fifty percent (50%) of the remaining balance to be allocated under this
4 subsection shall be distributed according to the "PSAP pro rata formula,"
5 whereby each state police dispatch center that previously qualified for PSAP
6 pro rata formula funding under subsection (6)(a)2.a. of this section but
7 subsequently qualifies under subsection (6)(a)2.b. of this section receives a
8 percentage determined by dividing one-half (1/2) ~~[(1)]~~ by the total number of
9 PSAPs eligible to request and actually requesting disbursements under
10 subsection (6) of this section. The remaining balance to be allocated under
11 this subsection shall be distributed to all remaining qualifying PSAPs
12 equally. Any PSAPs certified before January 1, 2004, or for more than three
13 (3) years, that choose to consolidate their operations shall continue to receive
14 pro-rata shares as if they remained separate and distinct entities. The
15 consolidated entity must be certified to receive funds under subsection (6) of
16 this section; and
- 17 (b) Fifty percent (50%) of the remaining balance to be allocated under this
18 subsection shall be distributed according to a method chosen by the board and
19 based on the wireless workload of the PSAP. Methods to be considered may
20 be based on the number of wireless 911 calls answered by each PSAP, the
21 number of wireless phone users served by each PSAP, or any other method
22 deemed by the board to be reasonable and equitable. The method chosen by
23 the board shall be promulgated as a regulation under KRS 65.7633.

24 All amounts distributed to PSAPs under this subsection shall be used by the PSAPs
25 solely for the purposes of answering, routing, and properly disposing of 911 calls,
26 training PSAP staff, and public education concerning appropriate use of 911, in
27 accordance with KRS 65.760(4) and (5). Additionally, amounts distributed to

1 PSAPs under this subsection may be used for the purposes of complying with the
2 wireless E911 service requirements established by the FCC order and any rules and
3 regulations which are or may be adopted by the Federal Communications
4 Commission pursuant to the FCC order, including the payment of costs and
5 expenses incurred in designing, upgrading, purchasing, leasing, programming,
6 testing, installing, or maintaining all necessary data, hardware, and software
7 required in order to provide wireless E911 service.

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

11 1. Is expressly certified as a PSAP by the Kentucky 911 Services Board,
12 upon written application to the board;

13 2. Demonstrates that the PSAP is:

14 a. Providing E911 services to a local government that has adopted an
15 ordinance either imposing a special tax, license, or fee as
16 authorized by KRS 65.760(3) or has established other means of
17 funding wireline 911 emergency service; or

18 b. A state police dispatch center that actively serves as an alternate
19 or backup PSAP for one (1) or more nonstate police PSAPs;

20 3. Demonstrates that the administrator of the PSAP sent a request for
21 wireless, E911 service to a CMRS provider, and that the infrastructure
22 of the local exchange carrier will support wireless E911 service;

23 4. Provides an accounting of the number of wireless E911 calls received by
24 the PSAP during the prior calendar year if requested by the board; ~~and~~

25 5. Demonstrates that the PSAP has made the investment which is necessary
26 to allow the PSAP to receive and utilize the data elements associated
27 with wireless E911 service; and

1 **6. Adopts and participates in, or provides a compatible service to, board-**
2 **funded statewide next generation 911 projects, programs, and**
3 **initiatives required to meet federal directives, and supports or**
4 **implements next generation 911 emergency services Internet protocol**
5 **networks, core services, and geographic information services**
6 **components.**

7 (b) In addition to the requirements of paragraph (a) of this subsection and in order
8 to encourage the additional consolidation of PSAPs by local governments and
9 state government agencies, after January 1, 2017, a PSAP shall receive
10 priority consideration for distributions of funds from subsection (4)(a) and (b)
11 of this section as follows:

- 12 1. A PSAP that is not a state police dispatch center and that covers all local
13 governments within two (2) or more counties shall receive first priority
14 in the distribution of the funds by the board;
- 15 2. A PSAP, including any state police dispatch center, that covers all the
16 local governments within a single county shall receive second priority in
17 the distribution of the funds by the board; and
- 18 3. A PSAP, **including any state police dispatch center,** that does not cover
19 all of the local governments within a single county shall receive the last
20 priority for the distribution of the funds listed in this subsection by the
21 board.

22 ➔Section 3. This Act takes effect August 1, 2022.