

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 56-484.17 of the Code of Virginia, relating to the Wireless E-911 Fund;*  
 3 *distribution percentages.*

4 [H 1719]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 56-484.17 of the Code of Virginia is amended and reenacted as follows:**8 **§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.**

9 A. There is hereby created in the state treasury a special nonreverting fund to be known as the  
 10 Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest  
 11 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in  
 12 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund  
 13 but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for  
 14 the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be  
 15 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the  
 16 Tax Commissioner or the Chief Information Officer of the Commonwealth.

17 B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each  
 18 of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall  
 19 be imposed on federal, state and local government agencies. A payment equal to all wireless E-911  
 20 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation,  
 21 after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges  
 22 into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund.  
 23 Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless  
 24 E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall  
 25 not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from  
 26 customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4  
 27 U.S.C. § 116 et seq., as amended).

28 The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

29 C. Beginning July 1, 2012, 60 percent of the Wireless E-911 Fund shall be distributed on a monthly  
 30 basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911  
 31 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to  
 32 subsection E. On or before July 1, ~~2017~~ 2018, and every five years thereafter, the Department of  
 33 Taxation shall recalculate the distribution percentage for each PSAP based on the cost and call load data  
 34 of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board  
 35 and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall  
 36 be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of  
 37 such fiscal year.

38 D. Using 30 percent of the Wireless E-911 Fund, the Board shall provide payment to CMRS  
 39 providers of wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the  
 40 Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to  
 41 incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The  
 42 Board shall review such estimates and advise each CMRS provider on or before the following March 1  
 43 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected  
 44 to be sufficient for such payment during said fiscal year. A CMRS provider with an approved estimate  
 45 of costs shall submit its request for payment of such costs no later than four months after the end of the  
 46 fiscal year in which the cost was incurred. If the portion of the Fund designated for CMRS provider cost  
 47 payments is insufficient to provide full payment to each CMRS provider for its costs, no unpaid cost  
 48 shall be paid in the following fiscal year. The remaining 10 percent of the Fund and any remaining  
 49 funds for the previous fiscal year from the 30 percent for CMRS providers shall be distributed to PSAPs  
 50 or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall  
 51 establish criteria for receiving and making grants from the Fund, including procedures for determining  
 52 the amount of a grant and payment schedule; however, the grants must be to the benefit of wireless  
 53 E-911. Any grant funding that has not been committed by the Board by the end of the fiscal year shall  
 54 be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in  
 55 which the funding was collected; however, the Board may retain some or all of this uncommitted  
 56 funding for an identified funding need in the next fiscal year or for a reserve balance pursuant to a

57 reserve balance policy adopted by the Board.

58 E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the  
59 grant funding received by all recipients to ensure it was utilized in accordance with the grant  
60 requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying  
61 payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were  
62 less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or  
63 CMRS provider. Each funding recipient shall provide such verification of such costs as may be  
64 requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during  
65 the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the  
66 actual costs reported, the Board may include the additional funding in the then current fiscal year.

67 F. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the  
68 Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the  
69 Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the  
70 Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on  
71 Appropriations, and the Virginia State Crime Commission.

72 G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.