

1 SB338
2 184360-1
3 By Senator Ward
4 RFD: Governmental Affairs
5 First Read: 04-APR-17

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8 SYNOPSIS: Under existing law, the 911 Fund is
9 established to receive revenues from 911 service
10 charges. Revenue from the delivery of 911 services
11 are distributed to districts on a base distribution
12 and a per capita distribution from the fund.

13 This bill would delete the provisions for a
14 base distribution from the fund and would specify
15 that the distribution would be on a per capita
16 basis.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 11-98-5.2 of the Code of Alabama
23 1975, relating to the 911 Fund; to further provide for
24 distributions to districts on a per capita basis.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 11-98-5.2 of the Code of Alabama
27 1975, Code of Alabama 1975, is amended to read as follows.

1 "§11-98-5.2.

2 "(a) Effective October 1, 2013, the 911 Fund shall
3 be created as an insured interest-bearing account into which
4 the 911 Board shall deposit all revenues derived from the
5 service charge levied on voice communications service
6 providers under this chapter and all prepaid wireless 911
7 charges received from the department. The revenues deposited
8 into the 911 Fund shall not be monies or property of the state
9 and shall not be subject to appropriation by the Legislature.
10 The 911 Board shall administer the fund and shall credit the
11 911 Fund all revenues received. The fund and revenues
12 generated by the fund may only be used as provided in this
13 chapter.

14 "(b) Effective October 1, 2013, there shall first be
15 deducted, no more than one time during each calendar month,
16 from the total amount of the statewide 911 charges paid over
17 to the 911 Board during such month, a sum not to exceed one
18 percent of the total amount, to be applied by the 911 Board
19 exclusively for payment of administrative expenses theretofore
20 incurred by it and, at the board's discretion, the awarding of
21 additional operational grants to districts outside of the
22 other distribution criteria in this subsection upon a showing
23 of hardship. The balance of the total amount of the statewide
24 911 charges paid over to the 911 Board during each calendar
25 month shall be deposited into the 911 Fund and shall be
26 apportioned and distributed in accordance with the succeeding
27 provisions of this subsection.

1 "(1) There shall be distributed each month among all
2 then existing districts, from the moneys then on deposit in
3 the 911 Fund, an aggregate amount equal to the sum of a. 80
4 percent of the portion of the statewide 911 charges remitted
5 to the 911 Board with respect to the month by CMRS providers
6 and for prepaid wireless 911 charges, plus b. 100 percent of
7 all other statewide 911 charges remitted to the 911 Board with
8 respect to the month.

9 "(2) There shall be paid each month to each then
10 existing district, out of the amount described in subdivision
11 (1), one-twelfth of ~~the sum of the base distribution amount~~
12 ~~defined, as applicable, in subdivisions (3) and (4), plus the~~
13 per capita distribution amount defined in subdivision ~~(5)~~ (3).

14 "~~(3) The term base distribution amount, as used in~~
15 ~~this section with respect to any district with a functioning~~
16 ~~911 system as of September 30, 2011, and except as otherwise~~
17 ~~provided in this subdivision and subdivision (4), means the~~
18 ~~highest dollar amount per annum of emergency telephone service~~
19 ~~charges, excluding any fees received from the CMRS Fund, if~~
20 ~~any, received by the district during the five prior~~
21 ~~consecutive fiscal years ending on September 30, 2011;~~
22 ~~provided, that, if the district first levied any such service~~
23 ~~charge, or if the district by vote of the commissioners of the~~
24 ~~district, during the fiscal year ending on September 30, 2011,~~
25 ~~or seven months thereafter, increased the rate of the charge~~
26 ~~effective on or before January 1, 2013, then the total dollar~~
27 ~~amount of the emergency telephone service charges with respect~~

1 to the fiscal year ending September 30, 2011, shall be deemed
2 to be the amount that would have been collected had the
3 increased rate been in effect for the entire fiscal year
4 ending September 30, 2011. Any vote of the commissioners
5 authorizing an increase in fees under the preceding sentence
6 may be contingent upon the enactment of Act 2012-293. No
7 adjustment shall be made under the preceding sentence to take
8 into account any increase in an emergency service charge
9 adopted by a district after January 1, 2012, if such district
10 shall have otherwise increased its emergency service charge
11 since January 1, 2011. For any district established prior to
12 September 30, 2011, but which initiated 911 service between
13 September 30, 2011, and June 1, 2012, the base distribution
14 amount shall be deemed to be the amount that would have been
15 collected if the 911 charge imposed by the district on August
16 1, 2012, had been in effect for the entire fiscal year. For
17 any county or municipal district that was funding an E-911
18 system on September 30, 2011, without a separate 911 fee, the
19 base distribution amount shall be the product of: That amount
20 determined by the board to be the county or municipality's
21 total funding of its E-911 system for purposes of calculation
22 of the initial statewide rate under subsection (a) of Section
23 11-98-5, multiplied by a fraction, the numerator of which is
24 the total wireline 911 fees paid to all districts as of
25 September 30, 2011, and the denominator of which is the total
26 wireline and wireless 911 fees determined by the board to have
27 been paid to all districts and the CMRS Board for the same

1 period. Within 90 days of the effective date of any adjustment
2 in the statewide 911 charge to increase the baseline 911
3 revenues under subdivision (2) of subsection (c) of Section
4 11-98-5, the base distribution amount shall be increased by an
5 amount equal to the product of: a. the total amount
6 distributed to the district in the immediately preceding
7 fiscal year, multiplied by b. the rate of growth, determined
8 as a percentage, in the CPI-U utilized by the 911 Board for
9 the prior five-year period pursuant to subdivision (2) of
10 subsection (c) of Section 11-98-5.

11 "(4)a. Any district that has, prior to March 1,
12 2011, entered into one or more contracts, including, without
13 limitation, any lease, lease-purchase, or purchase agreement
14 or contract, to acquire equipment utilized or to be utilized
15 as part of a single, comprehensive, countywide radio system to
16 be operated within the boundaries of the district, may, no
17 later than December 31, 2012, provide the 911 Board a copy of
18 a pro forma financial statement setting forth revenue and
19 expense projections demonstrating the ability of the district
20 to pay all principal and interest maturing or coming due with
21 respect to any contracts, and any bonds or other obligations
22 issued or incurred by the district to evidence the borrowing
23 of money by the district in connection with the planning,
24 acquisition, construction, and equipment of the countywide
25 radio system, and other system costs. Such revenue projections
26 shall set forth the district's annualized revenues that would
27 be included in the base distribution amount as calculated in

1 ~~subdivision (3), for the fiscal year of the district ending on~~
2 ~~September 30, 2011, or any fiscal year thereafter during which~~
3 ~~the contracts, bonds, or other obligations are expected to be~~
4 ~~outstanding and unpaid, and the amount received by the~~
5 ~~district during the fiscal year ending September 30, 2011,~~
6 ~~from the CMRS Fund. The pro forma statement shall be~~
7 ~~accompanied by such supporting information as may be~~
8 ~~reasonably requested by the 911 Board, whose review shall be~~
9 ~~limited to the accuracy and reasonableness of the revenue and~~
10 ~~expense projections contained therein solely for the purposes~~
11 ~~of this subsection and which shall not extend to the approval~~
12 ~~or disapproval of any projects authorized by the district~~
13 ~~under existing law.~~

14 ~~"b. For a district meeting the requirements of this~~
15 ~~subdivision, the base distribution amount for the district,~~
16 ~~during any fiscal year or years in which the contracts, bonds,~~
17 ~~or other obligations outstanding and unpaid, shall be~~
18 ~~increased by the difference, if any, between the revenue~~
19 ~~projections shown in the pro forma financial statement and the~~
20 ~~base distribution amount as calculated under subdivision (3),~~
21 ~~and the district's per capita distribution amount, as defined~~
22 ~~in subdivision (5), shall be reduced by an amount equal to the~~
23 ~~difference, with the amount of the reduction added to the~~
24 ~~amount available for payment to other districts under~~
25 ~~subdivision (5).~~

26 ~~"(5)(3)~~ The term per capita distribution amount, as
27 used in this section with respect to any district, means the

1 district's pro rata share ~~, computed according to the~~
2 ~~distribution formula,~~ of the amount described in subdivision
3 (1) ~~that remains after payment in full of the aggregate base~~
4 ~~distribution amounts required to be paid to all districts~~
5 distributed to each district on a pro rata basis based on the
6 population of each district to the population of all
7 districts. The district shall assure that all financial
8 obligations and contractual obligations of the district are
9 paid from its distribution.

10 "~~(6)~~(4) Notwithstanding the preceding provisions of
11 this subsection, there shall never be paid to any district,
12 during any fiscal year, from the moneys deposited into the 911
13 Fund, an amount less than the sum of the total dollar amount
14 of the initial base distribution amount received by the
15 district as calculated under subdivision (3) plus, without
16 duplication, amount received by the district from the CMRS
17 Fund during the fiscal year ending September 30, 2011. For any
18 county or municipal district that was funding an E-911 system
19 on September 30, 2011, without a separate 911 fee, there shall
20 never be paid from the moneys deposited into the 911 Fund,
21 during any fiscal year, an amount less than the sum that
22 amount determined by the board to be the county or
23 municipality's funding of its E-911 system for purposes of
24 calculation of the initial statewide rate under this section.

25 "~~(7)~~(5) Except as otherwise provided in subdivision
26 ~~(6)~~ (3), there shall be set aside and deposited each month,
27 into a separate account, which may, but need not, form a part

1 of the 911 Fund, an amount equal to 20 percent of the portion
2 of the statewide 911 charges remitted to the 911 Board with
3 respect to the month by CMRS providers. All moneys in the
4 separate account shall be used exclusively for payment of
5 actual and direct costs incurred by CMRS providers in
6 complying with wireless E-911 service requirements established
7 by the FCC Order and complying with any rules or regulations
8 adopted at any time by the FCC pursuant to the FCC Order; and
9 the costs may include, without limitation, costs and expenses
10 incurred in connection with designing, upgrading, purchasing,
11 leasing, programming, installing, testing, or maintaining all
12 necessary data, hardware, and software required in order to
13 provide Phase II Enhanced 911, and the incremental costs of
14 operating Phase II Enhanced 911.

15 "(c) Each CMRS provider wishing to participate in
16 the payments provided in subdivision ~~(7)~~(5) of subsection (b)
17 for expenses related to providing Phase II Enhanced 911 shall
18 certify to the 911 Board that it does not then collect a
19 cost-recovery or other similar separate charge from its
20 customers. CMRS providers failing to provide the certification
21 by October 1 are ineligible to receive any payments until such
22 certificate is provided to the 911 Board. Any CMRS provider
23 electing to collect cost-recovery or other similar separate
24 charges at any time following its October 1 certification
25 shall immediately notify the 911 Board and is ineligible to
26 participate in the payments established in this subsection
27 until ceasing the collection from its customers and providing

1 the notice required herein. This requirement shall only apply
2 to payments for expenses related to providing Phase II
3 Enhanced 911.

4 "(d) Any CMRS provider wishing to receive
5 reimbursement of costs under the guidelines established by
6 subsection (c) shall also comply with Section 11-98-7.

7 "(e) In the event that there are wireless emergency
8 telephone services that cannot be efficiently performed at the
9 district level or there are expenses that cannot be properly
10 allocated at the district level, the 911 Board may determine
11 the smallest practical unit basis for joint implementation and
12 provide reimbursements in accordance with this section."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.