

1 SB438
2 130067-1
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 21-APR-11

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8 SYNOPSIS: Under existing law, a single statewide
9 wireless E-911 charge is paid into a fund
10 administered by the Commercial Radio Services Board
11 and distributed, in part, to local emergency
12 communication districts. Wireline 911 charges are
13 set and collected by each communications district
14 for operation of the district and vary by district.

15 This bill would create a statewide E-911
16 Board to replace the existing Commercial Mobile
17 Radio Service Board. This bill would provide that
18 the board would establish and collect a single
19 statewide emergency telephone service charge to be
20 paid into an E-911 Fund replacing all other
21 existing wireline and wireless E-911 charges. This
22 bill would provide new procedures for the
23 collection of the emergency service charge from
24 prepaid wireless consumers at the point of sale.
25 This bill would provide for distribution to local
26 communications districts and commercial mobile
27 radio service providers.

1 This bill would provide guidelines for
2 commercial mobile radio service providers to
3 receive reimbursement for the costs associated with
4 implementing Phase II enhanced E-911 compliance and
5 for other expenses related to providing E-911
6 service.

7 This bill would create a Permanent Oversight
8 Commission on 911 in the state and would provide
9 for the duties of the commission. This bill would
10 provide that the rate charged for wireline services
11 would be frozen until the commission makes
12 recommendations regarding the rate.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to E-911 services, to amend Sections
19 11-98-1, 11-98-2, 11-98-4, 11-98-5, 11-98-6, 11-98-7, and
20 11-98-9, Code of Alabama 1975, to add Sections 11-98-4.1,
21 11-98-5.2, 11-98-5.3, 11-98-12, and 11-98-12.1 to the Code of
22 Alabama 1975, to create a single, statewide emergency service
23 charge applicable to all voice services provided within the
24 state; to create a statewide 911 Board, which shall replace
25 and supersede the existing Commercial Mobile Radio Service
26 (CMRS) Board and which would be responsible for establishing
27 and collecting an emergency telephone service charge; to

1 distribute the funds collected from the service charge to
2 communications districts and CMRS providers; to establish a
3 Permanent Oversight Commission and to provide for the
4 membership and duties of the commission; to freeze the E-911
5 rate charged for wireline services pending recommendations by
6 the commission; and to repeal Sections 11-98-5.1, 11-98-7.1,
7 and 11-98-8, Code of Alabama 1975.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 11-98-1, 11-98-2, and 11-98-4,
10 Code of Alabama 1975, are amended to read as follows:

11 "§11-98-1.

12 "(a) As used in this chapter, the following words
13 and terms have the following meanings, unless the context
14 clearly indicates otherwise:

15 "(1) AUTOMATIC NUMBER IDENTIFICATION. An enhanced
16 911 service capability that enables the automatic display of
17 the 10-digit telephone number used to place a 911 call. The
18 term includes pseudo-automatic number identification, which
19 means an enhanced 911 service capability that enables
20 identification of the subscriber.

21 "(2) CMRS. Commercial mobile radio service under
22 Sections 3(27) and 332(d) of the Federal Telecommunications
23 Act of 1996, 47 U.S.C. §151 et seq., and the Omnibus Budget
24 Reconciliation Act of 1993, Pub. L. 103-66, Aug. 10, 1993, 107
25 Stat. 312. The term includes the term wireless and service
26 provider by any wireless real time two-way voice communication
27 device, including radio-telephone communications used in

1 cellular telephone service, personal communication service, or
2 the functional or competitive equivalent of a radio-telephone
3 communications line used in cellular telephone service, a
4 personal communication service, or a network radio access
5 line. The term does not include service whose customers do not
6 have access to 911 or to an enhanced 911-like service, to a
7 communications channel suitable only for data transmission, to
8 a wireless roaming service or other non-local radio access
9 line service, or to a private telecommunications system.

10 "(3) CMRS CONNECTION. Each mobile telephone number
11 assigned to a CMRS subscriber with a place of primary use in
12 Alabama.

13 "(4) CMRS PROVIDER. A person or entity that provides
14 CMRS.

15 ~~(1)~~ (5) CREATING AUTHORITY. The municipal governing
16 body of any municipality or the governing body of any county
17 that, by passage of a resolution or ordinance, creates a
18 communication district within its respective jurisdiction in
19 accordance with this chapter.

20 "(6) DISTRIBUTION FORMULA. The percentage of the
21 total state population residing in a district, compared to the
22 total state population residing in all districts statewide,
23 based upon the latest census data or estimates compiled by or
24 for the Alabama Department of Economic and Community Affairs.

25 ~~"(2)~~ (7) DISTRICT. The A communication district
26 created pursuant to this chapter.

1 ~~"(3) E911. Enhanced universal emergency number~~
2 ~~service or enhanced 911 service which is a telephone exchange~~
3 ~~communications service whereby a public safety answering point~~
4 ~~(PSAP) designated by the customer may receive telephone calls~~
5 ~~dialed to the telephone number 911. E911 service includes~~
6 ~~lines, facilities, and equipment necessary for answering,~~
7 ~~transferring, and dispatching public emergency telephone calls~~
8 ~~originated by persons within the serving area who dial 911 but~~
9 ~~E911 service does not include dial tone first which may be~~
10 ~~made available by the service provider based on the ability to~~
11 ~~recover the costs associated with its implementation and~~
12 ~~consistent with tariffs filed with and approved by the Alabama~~
13 ~~Public Service Commission.~~

14 ~~"(4) EXCHANGE ACCESS FACILITIES. All lines, provided~~
15 ~~by the service suppliers for local exchange service, as~~
16 ~~defined in existing general subscriber services tariffs.~~

17 ~~"(5) PRIVATE SAFETY AGENCY. Any other for-profit or~~
18 ~~not-for-profit entity providing emergency fire, ambulance,~~
19 ~~rescue, emergency management, or emergency medical services.~~

20 "(8) ENHANCED 911, E-911, or E-911 SYSTEM. An
21 emergency telephone system that directs 911 calls to
22 appropriate public safety answering points by selective
23 routing based on the geographical location from which the call
24 originated, that provides the capability for automatic number
25 identification, and the features that the Federal
26 Communications Commission may require in the future. Such
27 system may include lines, facilities, and equipment necessary

1 for answering, transferring, and dispatching public emergency
2 telephone calls originated by persons within the serving area
3 who dial 911 but does not include dial tone first which may be
4 made available by the service provider based on the ability to
5 recover the costs associated with its implementation and, to
6 the extent required by law, consistent with tariffs with and
7 approved by the Alabama Public Service Commission.

8 "(9) FCC ORDER. The order of the Federal
9 Communications Commission, FCC Docket No. 94-102, adopted on
10 June 12, 1996, and released on July 26, 1996.

11 "(10) OTHER ORIGINATING SERVICE PROVIDER. An entity
12 other than a voice communication service provider that
13 delivers real-time communication between a person needing
14 assistance and an E-911 system.

15 "(11) PHASE II ENHANCED 911. An enhanced 911 system
16 that identifies the location of all 911 calls by longitude and
17 latitude in conformance with accuracy requirements established
18 by the Federal Communications Commission.

19 "(12) PLACE OF PRIMARY USE. The street address
20 representative of where the customer's use of the mobile
21 telecommunications service primarily occurs, which must be:

22 "a. The residential street address or the primary
23 business street address of the customer.

24 "b. Within the licensed service areas of the CMRS
25 provider.

26 "~~(6)~~(13) PUBLIC SAFETY AGENCY. An agency of the
27 State of Alabama, or a functional division of a political

1 subdivision, that provides fire fighting, rescue, natural or
2 man-caused disaster, or major emergency response, law
3 enforcement, ambulance, or emergency medical services.

4 ~~"(7) SERVICE SUPPLIER. Any person providing exchange~~
5 ~~telephone service to any service user throughout the county or~~
6 ~~municipality.~~

7 ~~"(8) SERVICE USER. Any person, not otherwise exempt~~
8 ~~from taxation, who is provided exchange telephone service in~~
9 ~~the municipality or county.~~

10 ~~"(9) TARIFF RATE. The rate or rates billed by a~~
11 ~~service supplier as stated in the service supplier's tariffs~~
12 ~~and approved by the Alabama Public Service Commission, which~~
13 ~~represent the service supplier's recurring charges for~~
14 ~~exchange access facilities, exclusive of all taxes, fees,~~
15 ~~licenses, or similar charges whatsoever.~~

16 ~~"(10) UNIFORM APPLICATION. The rate to be charged or~~
17 ~~applied by the communication district to the exchange access~~
18 ~~rate charged to business and residential access lines.~~

19 "(14) STATEWIDE 911 BOARD or 911 BOARD. The
20 statewide 911 Board established pursuant to Section 11-98-4.

21 "(15) STATEWIDE 911 CHARGE. The Statewide 911 Charge
22 created pursuant to Section 11-98-5.

23 "(16) SUBSCRIBER. A person who purchases a voice
24 communications service and is able to receive it or use it
25 periodically over time.

26 "(17) TECHNICAL PROPRIETARY INFORMATION. Technology
27 descriptions, technical information, or trade secrets,

1 including the term trade secrets as defined by the Alabama
2 Trade Secrets Act of 1987, Chapter 27 of Title 8, and the
3 actual or developmental costs thereof which are developed,
4 produced, or received internally by a voice communications
5 service provider or by its employees, directors, officers, or
6 agents.

7 "(18) VOICE COMMUNICATIONS SERVICE. Any of the
8 following:

9 "a. The transmission, conveyance, or routing of
10 real-time, two-way voice communications to a point or between
11 or among points by or through any electronic, radio,
12 satellite, cable, optical, microwave, wireline, wireless, or
13 other medium or method, regardless of the protocol used.

14 "b. The ability to receive and terminate voice calls
15 to and from the public switched telephone network.

16 "c. Interconnected VoIP service, as that term is
17 defined by 47 C.F.R. § 9.3.

18 "(19) VOICE COMMUNICATIONS SERVICE PROVIDER. An
19 entity that provides voice communications service to a
20 subscriber in the State of Alabama.

21 "(b) The terms department, prepaid retail,
22 transaction, prepaid wireless telephone service, and prepaid
23 wireless consumer shall have those meanings ascribed to them
24 in Section 11-98-5.3.

25 "§11-98-2.

26 "The creating authority may by ordinance or
27 resolution, as may be appropriate, create within its

1 respective jurisdiction ~~communications~~ districts composed of
2 the territory lying wholly within the municipality or of any
3 part or all of the territory lying wholly within the county.
4 The districts shall be political and legal subdivisions of the
5 state, with power to sue and be sued in their corporate names
6 and to incur debt and issue bonds. The bonds shall be
7 negotiable instruments and shall be solely the obligations of
8 the district and not the State of Alabama. The bonds and the
9 income thereof shall be exempt from all taxation in the State
10 of Alabama. The bonds shall be payable out of the income,
11 revenues, and receipts of the district. The bonds shall be
12 authorized and issued by resolution or ordinance of the
13 creating authority of the district and shall be of such
14 series, bear such date or dates, mature at such time or times,
15 not to exceed 30 years from issuance, bear interest at such
16 rate or rates, be in such denominations, be in such form,
17 without coupon or fully registered without coupon, carry such
18 registration and exchangeability privileges, be payable in
19 such medium of payment and at such place or places, be subject
20 to such terms of redemption, and be entitled to the priorities
21 on the income, revenues, and receipts of the district as the
22 resolution or ordinance may provide.

23 "All bonds shall contain a recital that they are
24 issued pursuant to this chapter, which recitals shall be
25 conclusive that they have been duly authorized pursuant to
26 this chapter.

27 "§11-98-4.

1 "(a) When any district is created, the creating
2 authority may appoint a board of commissioners composed of
3 seven members to govern its affairs, and shall fix the
4 domicile of the board of commissioners at any point within the
5 district. In the case of county districts, after the
6 expiration of the terms of the members of the board of
7 commissioners holding office on May 23, 2000, there may be at
8 least one member of the board of commissioners from each
9 county commission district if the number of the county
10 commission does not exceed seven, unless a resolution dated
11 before January 1, 2000, was passed by a county commission
12 establishing an appointment process different from this
13 section or as otherwise provided by the enactment of a local
14 act after May 23, 2000. The members of the board of
15 commissioners shall be qualified electors of the district, two
16 of whom shall be appointed for terms of two years, three for
17 terms of three years, and two for terms of four years, dating
18 from the date of the adoption of the resolution or ordinance
19 creating the district. Thereafter, all appointments of the
20 members shall be for terms of four years.

21 "(b) The board of commissioners shall have complete
22 and sole authority to appoint a chairman and any other
23 officers it may deem necessary from among the membership of
24 the board of commissioners.

25 "(c) A majority of the board of commissioners
26 membership shall constitute a quorum and all official action
27 of the board of commissioners shall require a quorum.

1 "(d) The board of commissioners may employ such
2 employees, experts, and consultants as it deems necessary to
3 assist the board of commissioners in the discharge of its
4 responsibilities to the extent that funds are made available.

5 "(e) In lieu of appointing a board of commissioners,
6 the governing body of the creating authority may serve as the
7 board of commissioners of the district, in which case it shall
8 assume all the powers and duties of the board of commissioners
9 as provided in this chapter.

10 "(f) In addition to other authority and powers
11 necessary to establish, operate, maintain, and replace an
12 emergency communication system, the board of commissioners
13 shall have the following authority:

14 "(1) To sue and be sued, to prosecute, and defend
15 civil actions in any court having jurisdiction of the subject
16 matter and of the parties.

17 "(2) To acquire or dispose of, whether by purchase,
18 sale, gift, lease, devise, or otherwise, property of every
19 description that the board may deem necessary, consistent with
20 this section, and to hold title thereto.

21 "(3) To construct, enlarge, equip, improve,
22 maintain, and operate all aspects of an emergency
23 communication system consistent with subsection ~~(i)~~ (a) of
24 Section ~~11-98-5~~ 11-98-6.

25 "(4) To borrow money for any of its purposes.

26 "(5) To provide for such liability and hazard
27 insurance as the board of commissioners may deem advisable to

1 include inclusion and continuation, or both, of district
2 employees in state, county, municipal, or self-funded
3 liability insurance programs.

4 "(6) To enter into contracts or agreements with
5 public or private safety agencies for dispatch services when
6 such terms, conditions, and charges are mutually agreed upon,
7 unless otherwise provided by local law.

8 "(7) To make grants to smaller municipalities for
9 dispatching equipment and services.

10 "(g) The board of commissioners may elect to form a
11 nonprofit, public corporation with all of the powers and
12 authority vested in such political and legal entities. The
13 certificate of incorporation shall recite, in part:

14 "(1) That this is a nonprofit, public corporation
15 and is a political and legal subdivision of the State of
16 Alabama as defined in this chapter.

17 "(2) The location of its principal office.

18 "(3) The name of the corporation.

19 "(4) That the governing body is the board of
20 commissioners.

21 "(h) Any other provisions of this chapter
22 notwithstanding, the board of commissioners shall present to
23 the creating authority for approval the acquisition,
24 disposition, or improvements to real property.

25 "(i) In addition to the provisions of subdivision
26 (5) of subsection (f), each employee or official of the
27 district who receives funds or is involved in the disbursement

1 of funds in any manner shall be bonded in an amount not less
2 than the amount of total funds received by the district in the
3 prior fiscal year. The bonds shall be paid for by the
4 district, and a copy shall be on file at the offices of the
5 district and at the office of the judge of probate of the
6 county in which the district is incorporated."

7 Section 2. Section 11-98-4.1 is added to the Code of
8 Alabama 1975, to read as follows:

9 §11-98-4.1.

10 There is created a statewide 911 Board comprised of
11 13 members that shall reflect the racial, gender, geographic,
12 urban/rural, and economic diversity of the state. The 911
13 Board shall annually report to the Legislature by the second
14 legislative day of each regular session the extent to which
15 the board has complied with the diversity provisions provided
16 for in this act. The 911 Board shall be created effective July
17 1, 2011, and until the effective date of the statewide 911
18 charge pursuant to Section 11-98-5, with the cooperation of
19 the CMRS Board, shall plan for the implementation of the
20 statewide 911 charge and the distribution of the revenues as
21 provided herein. The reasonable administrative expenses
22 incurred by the 911 Board prior to the implementation of the
23 statewide 911 charge may be deducted from the existing CMRS
24 Fund. Upon the effective date of the new statewide 911 charge,
25 the 911 Board shall replace and supersede the CMRS Board
26 formerly created pursuant to this chapter, and the CMRS Fund

1 shall be incorporated into, and considered part of, the 911
2 Fund.

3 (b) The 13 members of the 911 Board, each of whom
4 shall serve for a term of four years, shall be appointed by
5 the Governor as follows:

6 (1) Seven members recommended by the districts. For
7 the purposes of the initial board appointments, three of these
8 seven members shall be the members of the existing CMRS Board
9 recommended by the districts.

10 (2) Two members recommended by CMRS providers
11 licensed to do business in Alabama.

12 (3) Two members recommended by incumbent local
13 exchange carriers operating in Alabama, who shall not be from
14 the same local exchange carrier.

15 (4) Two members recommended by cable companies that
16 provide interconnected VoIP services in Alabama, who shall not
17 be from the same cable company.

18 (c) For purposes of the initial board appointments,
19 five members of the board, which shall include the existing
20 members of the CMRS Board who are appointed pursuant to
21 Section 11-98-4.1(b)(1) and (2), will be appointed for a
22 four-year term, four members for a three-year term, and the
23 remaining four members for a two-year term. Thereafter, board
24 members shall serve staggered terms of four years. In the
25 event of a vacancy, a vacancy shall be filled for the balance
26 of the unexpired term in the same manner as the original
27 appointment. Any vacancy occurring on the 911 Board, whether

1 for an expired or unexpired term, shall be filled by
2 appointment as soon as practicable after a vacancy occurs,
3 whether for an expired or unexpired term.

4 (d) For all terms expiring after July 1, 2014,
5 appointments made by the Governor shall be subject to
6 confirmation by the Senate as provided in this subsection.
7 Appointments made at times when the Senate is not in session
8 shall be effective immediately ad interim and shall serve
9 until the Senate acts on the appointment as provided herein.
10 Any appointment made by the Governor while the Senate is in
11 session shall be submitted to the Senate not later than the
12 third legislative day following the date of the appointment.
13 Any appointment made while the Senate is not in session shall
14 be submitted not later than the third legislative day
15 following the reconvening of the Legislature. In the event the
16 Senate fails or refuses to act on the appointment, the person
17 whose name was submitted shall continue to serve until action
18 is taken on the appointment by the Senate.

19 (e) The statewide 911 Board shall have the following
20 powers and duties:

21 (1) To develop a 911 State Plan. In fulfilling this
22 duty, the 911 Board shall monitor trends in voice
23 communications service technology and in enhanced 911 service
24 technology, investigate and incorporate Geographical
25 Information Systems, (GIS) mapping and other resources into
26 the plan, and formulate recommended strategies for the
27 efficient and effective delivery of enhanced 911 service.

1 (2) To administer the 911 Fund and the monthly
2 statewide 911 charge authorized by Section 11-98-5.

3 (3) To distribute revenue in the 911 Fund in
4 accordance with this chapter.

5 (4) To establish policies and procedures, adopted in
6 accordance with the Alabama Administrative Procedure Act, to
7 fund advisory services and training for districts and to
8 provide funds in accordance with these policies and procedures
9 to the extent funds are available.

10 (5) To make and enter into contracts and agreements
11 necessary or incidental to the performance of its powers and
12 duties under this chapter and to use revenue available to the
13 911 Board under Section 11-98-5 for administrative expenses to
14 pay its obligations under the contracts and agreements.

15 (6) To accept gifts, grants, or other money for the
16 911 Fund.

17 (7) To undertake its duties in a manner that is
18 competitively and technologically neutral as to all voice
19 communications service providers.

20 (8) To adopt rules in accordance with the Alabama
21 Administrative Procedure Act to implement this chapter; to
22 establish the statewide 911 charge; and, in response to
23 technological changes, apply, collect, and remit the statewide
24 911 charge, without duplication, to service connections of
25 other originating service providers, subject to the provisions
26 applicable to voice communication service providers under this
27 chapter. This authority does not include the regulation of any

1 enhanced 911 service, such as the establishment of technical
2 standards.

3 (9) To take other necessary and proper action to
4 implement this chapter.

5 Section 3. Section 11-98-5, Code of Alabama 1975, is
6 amended to read as follows:

7 "§11-98-5.

8 ~~"(a) (1) The board of commissioners of the district~~
9 ~~may, when so authorized by a vote of a majority of the persons~~
10 ~~voting within the district, in accordance with law, levy an~~
11 ~~emergency telephone service charge in an amount not to exceed~~
12 ~~five percent of the maximum tariff rate charged by any service~~
13 ~~supplier in the district, except that in counties with~~
14 ~~populations of less than 25,000 as determined by the most~~
15 ~~recent population census, the board of commissioners may, when~~
16 ~~so authorized by a vote of a majority of the persons voting~~
17 ~~within the district, in accordance with law, levy an emergency~~
18 ~~telephone service charge in an amount not to exceed two~~
19 ~~dollars (\$2). The governing body of the municipality or county~~
20 ~~may, upon its own initiative, call the special election. Any~~
21 ~~service charge shall have uniform application and shall be~~
22 ~~imposed throughout the entire district, to the greatest extent~~
23 ~~possible, in conformity with availability of such service in~~
24 ~~any area of the district. The district shall have service on~~
25 ~~line no later than 36 months from the start of collections or~~
26 ~~suspend all collections until the district provides the~~

1 ~~service and shall refund all collections made during this 36~~
2 ~~month period of time.~~

3 ~~"(2) On and after January 1, 1992, the board of~~
4 ~~commissioners, once so authorized by a vote of a majority of~~
5 ~~the persons voting in the district to levy an emergency~~
6 ~~telephone service charge, may implement any rate of the~~
7 ~~emergency telephone service charge permitted under this~~
8 ~~section, as it may be amended from time to time, without~~
9 ~~further authorization.~~

10 ~~"(b) If the proceeds generated by an emergency~~
11 ~~telephone service charge exceed the amount of moneys necessary~~
12 ~~to fund the district, the board of commissioners shall, by~~
13 ~~ordinance or resolution, as provided in this chapter, reduce~~
14 ~~the service charge rate to an amount adequate to fund the~~
15 ~~district. In lieu of reducing the service charge rate, the~~
16 ~~board of commissioners may suspend the service charge, if the~~
17 ~~revenues generated therefrom exceed the district's needs. The~~
18 ~~board of commissioners may, by resolution or ordinance,~~
19 ~~reestablish the original emergency telephone service charge~~
20 ~~rate, or lift the suspension thereof, if the amount of moneys~~
21 ~~generated is not adequate to fund the district.~~

22 ~~"(c) An emergency telephone service charge shall be~~
23 ~~imposed only upon the amount received from the tariff rate for~~
24 ~~exchange access lines. If there is no separate exchange access~~
25 ~~charge stated in the service supplier's tariffs, the board of~~
26 ~~commissioners shall determine a uniform percentage not in~~
27 ~~excess of 85 percent of the tariff rate for basic exchange~~

1 ~~telephone service that shall be deemed to be the equivalent of~~
2 ~~tariff rate exchange access lines, until the service supplier~~
3 ~~establishes the tariff rate. No service charge shall be~~
4 ~~imposed upon more than 100 exchange access facilities per~~
5 ~~person, per location. Every billed service user shall be~~
6 ~~liable for any service charge imposed under this subsection~~
7 ~~until it has been paid to the service supplier. The duty of~~
8 ~~the service supplier to collect the service charge shall~~
9 ~~commence upon the date of its implementation, which shall be~~
10 ~~specified in the resolution calling the election. That~~
11 ~~emergency telephone service charge shall be added to and may~~
12 ~~be stated separately in the billing by the service supplier to~~
13 ~~the service user.~~

14 ~~"(d) The service supplier shall have no obligation~~
15 ~~to take any legal action to enforce the collection of any~~
16 ~~emergency telephone service charge. The service supplier shall~~
17 ~~quarterly provide the board of commissioners with a list of~~
18 ~~the amount uncollected, together with the names and addresses~~
19 ~~of those service users who carry a balance that can be~~
20 ~~determined by the service supplier to be nonpayment of the~~
21 ~~service charge. The service charge shall be collected at the~~
22 ~~same time as the tariff rate according to the regular billing~~
23 ~~practice of the service supplier. Good faith compliance by the~~
24 ~~service supplier shall constitute a complete defense to any~~
25 ~~legal action or claim that may result from the service~~
26 ~~supplier's determination of nonpayment or the identification~~
27 ~~of service users, or both.~~

1 ~~"(e) The amounts collected by the service supplier~~
2 ~~attributable to any emergency telephone service charge shall~~
3 ~~be due monthly. The amount of service charge collected in one~~
4 ~~calendar month by the service supplier shall be remitted to~~
5 ~~the district no later than 30 days after the close of a~~
6 ~~calendar month. On or before the thirtieth day after the close~~
7 ~~of a calendar month, a return, in the form the board of~~
8 ~~commissioners and the service supplier agree upon, shall be~~
9 ~~filed with the district, together with a remittance of the~~
10 ~~amount of service charge collected payable to the district.~~
11 ~~The service supplier shall maintain records of the amount of~~
12 ~~the service charge collected for a period of at least two~~
13 ~~years from the date of collection. The board of commissioners~~
14 ~~may, at its expense, require an annual audit of the service~~
15 ~~supplier's books and records with respect to the collection~~
16 ~~and remittance of the service charge. From the gross receipts~~
17 ~~to be remitted to the district, the service supplier shall be~~
18 ~~entitled to retain an administrative fee in an amount equal to~~
19 ~~one percent.~~

20 ~~"(f) In order to provide additional funding or~~
21 ~~additional real or personal property for the district, the~~
22 ~~district or county or municipal governing body may receive~~
23 ~~federal, state, county, or municipal real or personal property~~
24 ~~and funds, as well as real or personal property and funds from~~
25 ~~private sources, and may expend the funds or use the property~~
26 ~~for the purposes of this chapter.~~

1 ~~"(g) With the agreement of the service supplier and~~
2 ~~the creating authority, two or more communication districts,~~
3 ~~or cities, or counties, or a city and a county in another~~
4 ~~communication district may agree to cooperate, to the extent~~
5 ~~practicable, to provide funding and service to their~~
6 ~~respective areas, and a single board of commissioners of not~~
7 ~~more than seven members may be appointed to conduct the~~
8 ~~affairs of the entities involved.~~

9 ~~"(h) A district may expend available funds to~~
10 ~~establish a common address and location identification program~~
11 ~~and to establish the emergency service number data base to~~
12 ~~facilitate efficient operation of the system. The governing~~
13 ~~body and the E-911 board of the county or city affected shall~~
14 ~~jointly be responsible for purchasing and installing the~~
15 ~~necessary signs to properly identify all roads and streets in~~
16 ~~the district.~~

17 ~~"(i) Funds generated from emergency telephone~~
18 ~~service charges shall be used to establish, operate, maintain,~~
19 ~~and replace an emergency communication system that may,~~
20 ~~without limitation, consist of the following:~~

21 ~~"(1) Telephone communications equipment to be used~~
22 ~~in answering, transferring, and dispatching public emergency~~
23 ~~telephone calls originated by persons within the service area~~
24 ~~who dial 911.~~

25 ~~"(2) Emergency radio communications equipment and~~
26 ~~facilities necessary to transmit and receive "dispatch" calls.~~

1 ~~"(3) The engineering, installation, and recurring~~
2 ~~costs necessary to implement, operate, and maintain an~~
3 ~~emergency communication system.~~

4 ~~"(4) Facilities to house E-911 services as defined~~
5 ~~in this chapter, with the approval of the creating authority,~~
6 ~~and for necessary emergency and uninterruptable power supplies~~
7 ~~for the systems.~~

8 "(a) A single, monthly statewide 911 charge shall be
9 imposed on each active voice communications service connection
10 in Alabama that is technically capable of accessing a 911
11 system. For CMRS providers, the statewide 911 charge shall be
12 levied on each CMRS connection with a primary place of use in
13 the State of Alabama. The statewide 911 charge is payable by
14 the subscriber to the voice communications service provider.
15 Except as otherwise provided in this chapter, the voice
16 communications service provider shall list the statewide 911
17 charge separately from other charges on the bill and the
18 charge shall be collected according to the regular billing
19 practice of the voice communications service provider. The
20 statewide 911 charge collected under this section shall not be
21 subject to taxes or charges levied on or by the voice
22 communications service provider nor shall the charges and fees
23 be considered revenue of the voice communications service
24 provider for any purposes. Partial payments made by a
25 subscriber are applied first to the amount owed for voice
26 communications service. The 911 Board shall collect from each
27 voice communications service provider the monthly statewide

1 911 charges prescribed herein. The statewide 911 charge shall
2 be initially set by the 911 Board at an amount calculated to
3 produce annual total revenues equal to the annual 911 fees
4 collected by or on behalf of districts and governmental bodies
5 as of September 30, 2011, plus an amount equal to any other
6 taxpayer funding of E-911 systems by counties or
7 municipalities in areas where no separate 911 fee is imposed.
8 The statewide 911 charge shall be uniformly applied and shall
9 be imposed throughout the state, and shall replace all other
10 911 fees or 911 taxes. The 911 Board shall certify that the
11 initial statewide 911 charge adopted herein is reasonably
12 calculated so as not to result in an increase in the fees or
13 taxes paid by Alabama consumers to support 911 services on a
14 statewide basis as of the date of its implementation.

15 "(b) A voice communications service provider shall
16 remit the statewide 911 charge collected by it under this
17 section to the 911 Board, utilizing such electronic or paper
18 reporting forms that may be adopted by the 911 Board by rule.
19 The provider shall remit the collected charges by the end of
20 the calendar month following the month the provider received
21 the charges from its subscribers. A voice communications
22 service provider may deduct and retain from the statewide 911
23 charges it receives from its subscribers and remits to the 911
24 Board an administrative allowance in an amount equal to one
25 percent. The voice communications service provider shall
26 maintain records of the amount of the statewide 911 fees
27 collected for a period of at least two years from the date of

1 collection. Good faith compliance by the voice communications
2 service supplier with this chapter shall constitute a complete
3 defense to any legal action or claim that may result from the
4 voice communications service provider's determination of
5 nonpayment or the identification of service users, or both.

6 "(c) The 911 Board shall monitor the revenues
7 generated by the statewide 911 charge. If the 911 Board
8 determines that the rate produces revenue in excess of, or
9 less than, the amount required to satisfy the requirements of
10 this chapter, the 911 Board shall adjust the rate effective
11 July 1 of the year. The 911 Board shall notify providers of a
12 change in the rate at least 90 days before the change becomes
13 effective. Without limiting the foregoing, at each five year
14 anniversary of the statewide 911 charge, the 911 Board shall
15 compare the percentage growth in the 911 Funding for the
16 preceding five years to the consumer price index for urban
17 consumers (CPI-U) for such period. In the event the percentage
18 growth in the 911 Fund is less than the increase in the CPI-U
19 for such period, the 911 Board shall prospectively increase
20 the statewide 911 rate after 90 days notice, by an amount
21 equal to the percentage difference.

22 "(d) A voice communications service provider has no
23 obligation to take any legal action to enforce the collection
24 of the statewide 911 charge billed to a subscriber. The 911
25 Board may initiate a collection action, and reasonable costs
26 and attorney's fees associated with that collection may be
27 assessed against the subscriber. A voice communications

1 service provider shall quarterly report to the 911 Board the
2 amount of the provider's uncollected service charges. The 911
3 Board may request, to the extent permitted by federal and
4 state privacy laws, the name, address, and telephone number of
5 a subscriber who refuses to pay the statewide 911 charge.

6 "(e) No district may impose a service charge or
7 other fee on a subscriber to support a 911 system.

8 "(f) At any time after October 1, 2013, should the
9 911 Board determine that the revenues allocated to providers
10 under subdivision (2) of subsection (b) of Section 11-98-5.2
11 for reimbursement to CMRS providers for Phase II Enhanced 911
12 compliance costs exceed those necessary to meet funding
13 requirements, it may distribute any excess revenues in
14 accordance with subdivision (1) of subsection (b) of Section
15 11-98-5.2.

16 Section 4. Sections 11-98-5.2 and 11-98.5.3 are
17 added to the Code of Alabama 1975, to read as follows:

18 §11-98-5.2.

19 (a) The 911 Fund is created as an insured
20 interest-bearing account into which the 911 Board shall
21 deposit all revenues derived from the service charge levied on
22 voice communications service providers under this chapter. The
23 revenues deposited into the 911 Fund shall not be monies or
24 property of the state and shall not be subject to
25 appropriation by the Legislature. The 911 Board shall
26 administer the fund and shall credit the 911 Fund all revenues

1 received. The fund and revenues generated by the fund may only
2 be used as provided in this chapter.

3 (b) The 911 Board shall deduct and retain for its
4 actual administrative expenses up to one percent of the total
5 service charges remitted to it under this chapter for deposit
6 in the 911 Fund. The 911 Board shall allocate the remaining
7 revenues in the 911 Fund as follows:

8 (1) Eighty percent of the funds remitted by CMRS
9 providers and all funds remitted by all other voice
10 communications service providers shall be allocated on a
11 monthly basis, to individual districts from the 911 Fund in an
12 amount determined by combining the following:

13 a. The base distribution amount which shall be the
14 average annual amount of 911 service charges collected by the
15 district from wireline providers for the last three fiscal
16 years prior through September 30, 2011. If a district has had
17 a service charge in effect for less than three full fiscal
18 years, the base amount shall be the average annual amount for
19 the number of full fiscal years that the charge has been in
20 existence or, if in existence for less than a full fiscal
21 year, the amount of service charges collected by such district
22 on an annualized basis as determined by the 911 Board.

23 b. The per capita distribution amount which shall be
24 the district's share of the 911 Fund revenues collected under
25 this subsection in excess of that needed for distribution to
26 districts under paragraph a. as base distribution amounts, if

1 any. The per capita distribution amount shall be distributed
2 in a accordance with the distribution formula.

3 c. Notwithstanding any other provision of this
4 chapter, the total revenues distributed to a district upon the
5 establishment of the statewide 911 charge shall not be less
6 than those total revenues received by such district from
7 wireline 911 fees and the existing CMRS Fund as of September
8 30, 2011.

9 (2) Subject to subsection (g) of Section 11-98-5, 20
10 percent of the funds remitted by CMRS providers shall be
11 deposited into a separate account and shall be used solely for
12 the purpose of payment of the actual and direct costs incurred
13 by CMRS providers in providing Phase II Enhanced 911 and
14 complying with any rules or regulations which are or may be
15 adopted by the FCC pursuant to the FCC Order, including, but
16 not limited to, costs and expenses incurred for designing,
17 upgrading, purchasing, leasing, programming, installing,
18 testing, or maintaining all necessary data, hardware, and
19 software required in order to provide the service as well as
20 the incremental costs of operating the service.

21 (c) Each CMRS provider wishing to participate in the
22 payments provided in subdivision (2) of subsection (b) of
23 Section 11-98-5 for expenses related to providing Phase II
24 Enhanced 911 shall certify to the 911 Board that it does not
25 then collect a cost-recovery or other similar separate charge
26 from its customers. CMRS providers failing to provide the
27 certification by October 1 are ineligible to receive any

1 payments until such certificate is provided to the 911 Board.
2 Any CMRS provider electing to collect cost-recovery or other
3 similar separate charges at any time following its October 1
4 certification shall immediately notify the 911 Board and are
5 ineligible to participate in the payments established in this
6 subsection until ceasing the collection from its customers and
7 providing the notice required herein. This requirement shall
8 only apply to payments for expenses related to providing Phase
9 II Enhanced 911.

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

13 (e) In the event that there are wireless emergency
14 telephone services that cannot be efficiently performed at the
15 district level or there are expenses that cannot be properly
16 allocated at the district level, the 911 Board may determine
17 the smallest practical unit basis for joint implementation and
18 provide reimbursements in accordance with this section.

19 §11-98-5.3.

20 (a) As used in this section, the following words and
21 terms shall have the following meanings unless the context
22 clearly indicates otherwise:

23 (1) DEPARTMENT. The Department of Revenue for the
24 State of Alabama.

25 (2) PREPAID RETAIL TRANSACTION. The purchase of
26 prepaid wireless telecommunications service from a seller for
27 any purpose other than resale.

1 (3) PREPAID WIRELESS CONSUMER. A person who
2 purchases prepaid wireless telecommunications service in a
3 retail transaction.

4 (4) PREPAID WIRELESS TELEPHONE SERVICE. A service
5 that meets all of the following requirements:

6 a. Authorizes the purchase of CMRS, either
7 exclusively or in conjunction with other services.

8 b. Must be paid for in advance.

9 c. Is sold in units or dollars whose number or
10 dollar value declines with use and is known on a continuous
11 basis.

12 (b) Notwithstanding any other provision of this
13 chapter, the current CMRS emergency telephone service
14 established under Section 11-98-7(b)(1) and, upon its
15 implementation, the replacement, statewide 911 charge to be
16 established under subsection (a) of Section 11-98-5 shall be
17 collected on prepaid wireless telephone service on each retail
18 transaction as follows:

19 (1) The prepaid wireless statewide 911 charge shall
20 be collected on prepaid wireless by the seller from the
21 prepaid wireless consumer with respect to each retail
22 transaction occurring in this state. The amount of the prepaid
23 wireless 911 charge shall be either separately stated on an
24 invoice, receipt, or other similar document that is provided
25 to the prepaid wireless consumer by the seller, or otherwise
26 disclosed to the prepaid wireless consumer.

1 (2) For purposes of subsection (b) (1), a retail
2 transaction that is effected in person by a prepaid wireless
3 consumer at a business location of the seller shall be treated
4 as occurring in this state if that business location is in
5 this state, and any other retail transaction shall be treated
6 as occurring in this state if the retail transaction is
7 treated as occurring in this state for purposes of Chapter 23
8 of Title 40.

9 (3) The prepaid wireless 911 charge is the liability
10 of the prepaid wireless consumer and not of the seller or of
11 any provider, except that the seller shall be liable to remit
12 all prepaid wireless 911 charges that the seller collects from
13 prepaid wireless consumers as provided in Section 11-98A-5,
14 including all charges that the seller is deemed to collect
15 where the amount of the charge has not been separately stated
16 on an invoice, receipt, or other similar document provided to
17 the prepaid wireless consumer by the seller.

18 (4) The amount of the prepaid wireless 911 charge
19 that is collected by a seller from a prepaid wireless
20 consumer, if the amount is separately stated on an invoice,
21 receipt, or other similar document provided to the prepaid
22 wireless consumer by the seller, shall not be included in the
23 base for measuring any tax, fee, surcharge, or other charge
24 that is imposed by this state, any political subdivision of
25 this state, or any intergovernmental agency.

26 (5) The prepaid wireless 911 charge shall be
27 increased or decreased, as applicable, upon any change to the

1 rate specified in Section 11-98-7(b) (1) or, upon its
2 implementation, the statewide 911 charge. The increase or
3 decrease shall be effective on the effective date of the
4 change to the postpaid charge or, if later, the first day of
5 the first calendar month to occur at least 60 days after the
6 enactment of the change to the rate specified in Section
7 11-98-7(b) (1). The department shall provide not less than 30
8 days of advance notice of the increase or decrease on the
9 department's website.

10 (6) Prepaid wireless 911 charges collected by
11 sellers shall be remitted to the department at the times and
12 in the manner provided by Chapter 23 of Title 40. The
13 department shall establish registration and payment procedures
14 that substantially coincide with the registration and payment
15 procedures that apply to Chapter 23, Title 40.

16 (7) A seller shall be permitted to deduct and retain
17 four percent of prepaid wireless 911 charges that are
18 collected by the seller from prepaid wireless consumers.

19 (8) The audit and appeal procedures applicable to
20 Chapter 23 of Title 40 shall apply to prepaid wireless 911
21 charges.

22 (9) The department shall establish procedures by
23 which a seller of prepaid wireless telecommunications service
24 may document that a sale is not a retail transaction, which
25 procedures shall substantially coincide with the procedures
26 for documenting sales for resale transactions for sales and
27 use tax purposes under Chapter 23 of Title 40.

1 (10) The department shall pay all remitted prepaid
2 wireless 911 charges over to the Commercial Mobile Radio
3 Services Board and, upon the effective date of the statewide
4 911 charge, to the statewide 911 board, within 30 days of
5 receipt, for use by the board in accordance with the purposes
6 permitted by this chapter, after deducting an amount, not to
7 exceed two percent of collected charges, that shall be
8 retained by the department to reimburse its direct costs of
9 administering the collection and remittance of prepaid
10 wireless 911 charges.

11 (c) The enactment of this section does not
12 constitute an expression as to the application of the CMRS
13 service charge to prepaid service before the adoption of this
14 act.

15 Section 5. Sections 11-98-6, 11-98-7, and 11-98-9,
16 Code of Alabama 1975, are amended to read as follows:

17 "§11-98-6.

18 ~~"As used in this section and Sections 11-98-7,~~
19 ~~11-98-8, and 11-98-9, the following terms shall have the~~
20 ~~following meanings:~~

21 ~~"(1) AUTOMATIC NUMBER IDENTIFICATION or ANI. An~~
22 ~~enhanced 911 service capability that enables the automatic~~
23 ~~display of the 10-digit wireless telephone number used to~~
24 ~~place a 911 call and includes pseudo-automatic number~~
25 ~~identification or pseudo-ANI, which means an enhanced 911~~
26 ~~service capability that enables the automatic display of the~~

1 ~~number of the cell site and an identification of the CMRS~~
2 ~~provider.~~

3 ~~"(2) BOARD or CMRS BOARD. The Commercial Mobile~~
4 ~~Radio Service Emergency Telephone Services Board.~~

5 ~~"(3) COMMERCIAL MOBILE RADIO SERVICE or CMRS.~~
6 ~~Commercial mobile radio service under Sections 3(27) and~~
7 ~~332(d) of the Federal Telecommunications Act of 1996, 47~~
8 ~~U.S.C. § 151 et seq., and the Omnibus Budget Reconciliation~~
9 ~~Act of 1993, Pub. L. 103-66, Aug. 10, 1993, 107 Stat. 312. The~~
10 ~~term includes the term wireless and service provided by any~~
11 ~~wireless real time two-way voice communication device,~~
12 ~~including radio-telephone communications used in cellular~~
13 ~~telephone service, personal communication service, or the~~
14 ~~functional or competitive equivalent of a radio-telephone~~
15 ~~communications line used in cellular telephone service, a~~
16 ~~personal communication service, or a network radio access~~
17 ~~line. The term does not include service whose customers do not~~
18 ~~have access to 911 or to an enhanced 911-like service, to a~~
19 ~~communications channel suitable only for data transmission, to~~
20 ~~a wireless roaming service or other non-local radio access~~
21 ~~line service, or to a private telecommunications system.~~

22 ~~"(4) COMMERCIAL MOBILE RADIO SERVICE PROVIDER or~~
23 ~~CMRS PROVIDER. A person or entity who provides commercial~~
24 ~~mobile radio service or CMRS service.~~

25 ~~"(5) CMRS CONNECTION. A mobile telephone number~~
26 ~~assigned to a CMRS customer.~~

1 ~~"(6) CMRS CUSTOMER. A person, business, corporation,~~
2 ~~or other entity that purchases, utilizes, or otherwise obtains~~
3 ~~wireless CMRS service, other than CMRS service sold to an~~
4 ~~entity for the purpose of resale.~~

5 ~~"(7) CMRS FUND. The Commercial Mobile Radio Service~~
6 ~~Fund required to be established and maintained pursuant to~~
7 ~~Section 11-98-7(b)(2).~~

8 ~~"(8) CMRS SERVICE CHARGE. The CMRS emergency~~
9 ~~telephone service charge levied and maintained pursuant to~~
10 ~~Section 11-98-7(b)(1) and (b)(2) and collected pursuant to~~
11 ~~Section 11-98-8.~~

12 ~~"(9) DISTRIBUTION FORMULA. The percentage of the~~
13 ~~total state population residing in an ECD, compared to the~~
14 ~~total state population residing in all ECDs statewide, based~~
15 ~~upon the latest census data or estimates compiled by or for~~
16 ~~the Alabama Department of Economic and Community Affairs.~~

17 ~~"(10) ECD. An emergency communications district~~
18 ~~created pursuant to this chapter.~~

19 ~~"(11) ENHANCED 911, E-911, ENHANCED E-911 SYSTEM, or~~
20 ~~E-911 SYSTEM. An emergency telephone system that provides the~~
21 ~~caller with emergency 911 system service, that directs~~
22 ~~enhanced 911 calls to appropriate public safety answering~~
23 ~~points by selective routing based on the geographical location~~
24 ~~from which the call originated, and that provides the~~
25 ~~capability for automatic number identification and the~~
26 ~~features that the Federal Communications Commission (FCC) may~~
27 ~~require in the future.~~

1 ~~"(12) EXCHANGE ACCESS FACILITY. An exchange access~~
2 ~~facility as defined by Section 11-98-1(4).~~

3 ~~"(13) FCC ORDER. The order of the Federal~~
4 ~~Communications Commission, FCC Docket No. 94-102, adopted on~~
5 ~~June 12, 1996, and released on July 26, 1996.~~

6 ~~"(14) LICENSED SERVICE AREA. The geographic area in~~
7 ~~which the CMRS provider is authorized by law or contract to~~
8 ~~provide CMRS service.~~

9 ~~"(15) MOBILE TELEPHONE NUMBER. The telephone number~~
10 ~~assigned to a wireless telephone.~~

11 ~~"(16) PHASE II ENHANCED 911 SERVICE. An emergency~~
12 ~~telephone system that provides the location of all 911 calls~~
13 ~~by longitude and latitude in conformance with accuracy~~
14 ~~requirements established by the Federal Communications~~
15 ~~Commission.~~

16 ~~"(17) PLACE OF PRIMARY USE. The street address~~
17 ~~representative of where the customer's use of the mobile~~
18 ~~telecommunications service primarily occur, which must be: a.~~
19 ~~The residential street address or the primary business street~~
20 ~~address of the customer; and b. within the licensed service~~
21 ~~area of the CMRS provider.~~

22 ~~"(18) PUBLIC SAFETY AGENCY. A public safety agency~~
23 ~~as defined by Section 11-98-1(6).~~

24 ~~"(19) SERVICE SUPPLIER. A service supplier as~~
25 ~~defined by Section 11-98-1(7).~~

26 ~~"(20) TECHNICAL PROPRIETARY INFORMATION. Technology~~
27 ~~descriptions, technical information, or trade secrets,~~

1 ~~including the term trade secrets as defined by the Alabama~~
2 ~~Trade Secrets Act of 1987, Section 8-27-1 et seq., and the~~
3 ~~actual or developmental costs thereof which are developed,~~
4 ~~produced, or received internally by a CMRS provider or by a~~
5 ~~CMRS provider's employees, directors, officers, or agents.~~

6 "(a) Funds received by a district pursuant to
7 subdivision (1) of subsection (b) of Section 11-98-5.1 shall
8 be used to establish, operate, maintain, and replace an
9 emergency communication system that, without limitation, may
10 consist of the following:

11 "(1) Telephone communications equipment to be used
12 in answering, transferring, and dispatching public emergency
13 telephone calls originated by persons within the service area
14 who dial 911.

15 "(2) Emergency radio communications equipment and
16 facilities necessary to transmit and receive dispatch calls.

17 "(3) The engineering, installation, and recurring
18 costs necessary to implement, operate, and maintain an
19 emergency communication system.

20 "(4) Facilities to house E-911 operators and related
21 services as defined in this chapter, with the approval of the
22 creating authority, and for necessary emergency and
23 uninterruptable power supplies for the systems.

24 "(5) Administrative and other costs related to
25 subdivisions (1) to (3), inclusive.

26 "(b) A district or county or municipal governing
27 body may receive federal, state, county, or municipal real or

1 personal property and funds, as well as real or personal
2 property and funds from private sources, and may expend the
3 funds or use the property for the purposes of this chapter.

4 "(c) Subject to the remaining provisions of this
5 chapter and the approval of the 911 Board and the creating
6 authority, two or more districts, cities, or counties, or a
7 city and a county in another district may agree to cooperate,
8 to the extent practicable, to provide funding and service to
9 their respective areas, and a single board of commissioners of
10 not more than seven members may be appointed to conduct the
11 affairs of the entities involved.

12 "(d) Subject to rules that may be adopted by the 911
13 Board, a district may expend available funds to establish a
14 common address and location identification program and to
15 establish the emergency service number data base to facilitate
16 efficient operation of the system. The governing body and the
17 E-911 board of each county or city affected shall be jointly
18 responsible for purchasing and installing the necessary signs
19 to properly identify all roads and streets in the district.

20 "(e) The Department of Examiners of Public Accounts
21 shall audit each district on a biennial basis to ensure
22 compliance with the requirements of this chapter.

23 "§11-98-7.

24 ~~"(a) There is created a Commercial Mobile Radio~~
25 ~~Service (CMRS) Board, consisting of seven members who shall be~~
26 ~~citizens of this state and shall reflect the racial, gender,~~

1 ~~geographic, urban and rural, and economic diversity of the~~
2 ~~state.~~

3 ~~"(1) The first five members of the board, each of~~
4 ~~whom shall serve for a term of four years, shall be appointed~~
5 ~~by the Governor, subject to confirmation by the Senate, as~~
6 ~~follows:~~

7 ~~"a. Two members recommended by the ECDs.~~

8 ~~"b. Two members recommended by CMRS providers~~
9 ~~licensed to do business in Alabama.~~

10 ~~"c. One member recommended by the State Auditor.~~

11 ~~"(2) The next two members of the board, each of whom~~
12 ~~shall serve for a term of four years, shall be appointed as~~
13 ~~follows:~~

14 ~~"a. One member of the House of Representatives~~
15 ~~appointed by the Speaker of the House.~~

16 ~~b. One member of the Senate appointed by the~~
17 ~~Lieutenant Governor.~~

18 ~~"(3) The term of each member shall be four years,~~
19 ~~except that of the members first appointed, one representing~~
20 ~~ECDs shall serve for three years and one representing CMRS~~
21 ~~providers shall serve for three years, one representing ECDs~~
22 ~~shall serve two years and one representing CMRS providers~~
23 ~~shall serve two years. The Governor shall designate the term~~
24 ~~which each of the members first appointed shall serve when he~~
25 ~~or she makes appointments. The two legislative members shall~~
26 ~~serve for the length of their elective service, but no more~~
27 ~~than four years.~~

1 ~~"(4) In the event of a vacancy, a vacancy shall be~~
2 ~~filled for the balance of the unexpired term in the same~~
3 ~~manner as the original appointment. Any vacancy occurring on~~
4 ~~the board, whether for an expired or unexpired term, shall be~~
5 ~~filled by appointment by the appointing authority as soon as~~
6 ~~practicable after a vacancy occurs, whether for an expired or~~
7 ~~unexpired term.~~

8 ~~"(5) For all terms expiring after October 1, 2007,~~
9 ~~appointments made by the Governor shall be subject to~~
10 ~~confirmation by the Senate as provided in this subdivision.~~
11 ~~Appointments made at times when the Senate is not in session~~
12 ~~shall be effective immediately ad interim and shall serve~~
13 ~~until the Senate acts on the appointment as provided herein.~~
14 ~~Any appointment made by the Governor while the Senate is in~~
15 ~~session shall be submitted to the Senate not later than the~~
16 ~~third legislative day following the date of the appointment.~~
17 ~~Any appointment made while the Senate is not in session shall~~
18 ~~be submitted not later than the third legislative day~~
19 ~~following the reconvening of the Legislature. In the event the~~
20 ~~Senate fails or refuses to act on the appointment, the person~~
21 ~~whose name was submitted shall continue to serve until action~~
22 ~~is taken on the appointment by the Senate.~~

23 ~~(b) The board shall have the following powers and~~
24 ~~duties:~~

25 ~~"(1) To levy a CMRS emergency telephone service~~
26 ~~charge on each CMRS connection that has a place of primary use~~
27 ~~within the geographical boundaries of the State of Alabama.~~

1 ~~The rate of the CMRS service charge shall be seventy cents~~
2 ~~(\$.70) per month per CMRS customer on each CMRS connection~~
3 ~~beginning on May 1, 1998, which amount shall not be increased~~
4 ~~except by the Legislature. The CMRS service charge shall have~~
5 ~~uniform application and shall be imposed throughout the state.~~
6 ~~The board shall receive all revenues derived from the CMRS~~
7 ~~service charge levied in the state and collected pursuant to~~
8 ~~Section 11-98-8.~~

9 ~~"(2) To establish and maintain the CMRS Fund as an~~
10 ~~insured, interest-bearing account into which the board shall~~
11 ~~deposit all revenues derived from the CMRS service charge~~
12 ~~levied on CMRS connections and collected pursuant to Section~~
13 ~~11-98-8. The revenues deposited into the CMRS Fund shall not~~
14 ~~be moneys or property of the state and shall not be subject to~~
15 ~~appropriation by the Legislature.~~

16 ~~"(3) To make disbursements from the CMRS Fund in the~~
17 ~~following amounts and in the following manner:~~

18 ~~"a. Out of the funds collected by the board and~~
19 ~~after deduction of administrative expenses, 56 percent shall~~
20 ~~be distributed to ECDs in accordance with the distribution~~
21 ~~formula and may only be used for the lease, purchase, or~~
22 ~~maintenance of wireless enhanced emergency telephone~~
23 ~~equipment, including necessary computer hardware, software,~~
24 ~~and data base provisioning, for incremental expenses directly~~
25 ~~related to the FCC Order and the handling of wireless~~
26 ~~emergency calls.~~

1 ~~"b. Beginning on October 1, 2007, 24 percent shall~~
2 ~~be distributed to ECDs in accordance with Section 11-98-7.1.~~

3 ~~"c. Twenty percent shall be deposited into a bank~~
4 ~~account and shall be used solely for the purpose of payment of~~
5 ~~the actual costs incurred by CMRS providers in complying with~~
6 ~~the wireless E-911 service requirements established by the FCC~~
7 ~~Order and any rules and regulations which are or may be~~
8 ~~adopted by the FCC pursuant to the FCC Order, including, but~~
9 ~~not limited to, costs and expenses incurred for designing,~~
10 ~~upgrading, purchasing, leasing, programming, installing,~~
11 ~~testing, or maintaining all necessary data, hardware, and~~
12 ~~software required in order to provide the service as well as~~
13 ~~the incremental costs of operating the service. Verified~~
14 ~~itemized statements shall be presented to the board in~~
15 ~~connection with any request for payment by any CMRS provider~~
16 ~~and shall be approved by a majority vote of the board prior to~~
17 ~~any disbursement. Approval shall not be withheld or delayed~~
18 ~~unreasonably. In no event shall any invoice be approved for~~
19 ~~the payment of costs that are not related to compliance with~~
20 ~~the wireless E-911 service requirements established by the FCC~~
21 ~~Order and any rules and regulations which are or may be~~
22 ~~adopted by the FCC pursuant to the FCC Order.~~

23 ~~"d. Beginning no later than October 1, 2007, and no~~
24 ~~later than each October 1 thereafter, each CMRS provider~~
25 ~~wishing to participate in the payments provided in paragraph~~
26 ~~c. for expenses related to the providing of Phase II Enhanced~~
27 ~~911 Service shall certify to the board that it does not then~~

1 ~~collect a cost-recovery or other similar separate charge from~~
2 ~~its customers. CMRS providers failing to provide such~~
3 ~~certification by October 1 shall be ineligible to receive such~~
4 ~~payments for any such Phase II expenses incurred until such~~
5 ~~certificate is provided to the board. Any CMRS provider~~
6 ~~electing to collect cost-recovery or other similar separate~~
7 ~~charges at any time following its October 1 certification~~
8 ~~shall immediately notify the board and shall be ineligible to~~
9 ~~participate in the payments established in this subsection~~
10 ~~until ceasing such collection from its customers and providing~~
11 ~~the notice required herein. This requirement shall only apply~~
12 ~~to payments for expenses related to the provision of Phase II~~
13 ~~Enhanced 911 Services.~~

14 ~~"e. In the event that there are wireless emergency~~
15 ~~telephone services which cannot be efficiently performed at~~
16 ~~the ECD level or there are expenses which cannot be properly~~
17 ~~allocated at the ECD level, any ECD or CMRS provider may~~
18 ~~submit invoices directly to the board and the board shall~~
19 ~~determine the smallest practical unit basis for joint~~
20 ~~implementation.~~

21 ~~"(4) To obtain, pursuant to subdivision (5), from an~~
22 ~~independent, third-party auditor retained by the board a copy~~
23 ~~of the annual reports to the Department of Examiners of Public~~
24 ~~Accounts no later than 120 days after the close of each fiscal~~
25 ~~year, which shall provide an accounting for all CMRS service~~
26 ~~charges deposited into the CMRS Fund during the preceding~~
27 ~~fiscal year and all disbursements to ECDs during the preceding~~

1 ~~fiscal year. The Department of Examiners of Public Accounts~~
2 ~~shall conduct an annual audit of the expenditures of the board~~
3 ~~from all CMRS service charges from the CMRS Fund.~~

4 ~~"(5) To retain, upon majority vote of the members of~~
5 ~~the board who are present and voting, an independent,~~
6 ~~third-party auditor for the purposes of receiving,~~
7 ~~maintaining, and verifying the accuracy of any and all~~
8 ~~information, including all proprietary information, that is~~
9 ~~required to be collected, or that may have been submitted to~~
10 ~~the board by CMRS providers and ECDs, and the accuracy of the~~
11 ~~collection of the CMRS service charge required to be~~
12 ~~collected. An audit, if conducted pursuant to this~~
13 ~~subdivision, shall be conducted pursuant to Chapter 2A of~~
14 ~~Title 40.~~

15 ~~"(6) To conduct a cost study on or before July 1,~~
16 ~~1999, to be submitted to the Governor, the Lieutenant~~
17 ~~Governor, and the Speaker of the House of Representatives for~~
18 ~~the purpose of determining whether legislation should be~~
19 ~~proposed during the 2000 Regular Session of the Alabama~~
20 ~~Legislature to adjust the amount of the CMRS service charge to~~
21 ~~reflect actual costs to be incurred by CMRS providers and ECDs~~
22 ~~in order to comply with the wireless E-911 service~~
23 ~~requirements established by the FCC Order and any rules and~~
24 ~~regulations which are or may be adopted by the FCC pursuant to~~
25 ~~the FCC Order.~~

26 ~~"(7) To promulgate such rules and regulations as may~~
27 ~~be necessary to effect the provisions of this section.~~

1 ~~"(8) To make the determinations and disbursements as~~
2 ~~provided by Section 11-98-8(c).~~

3 ~~"(9) Neither the board nor any ECD shall require the~~
4 ~~CMRS providers to select or to deploy particular commercial~~
5 ~~solutions to meet the requirements of the FCC Order, provided~~
6 ~~the solutions chosen are compatible with the operations of the~~
7 ~~ECDs.~~

8 ~~"(c) The CMRS service charge provided in subdivision~~
9 ~~(b)(1) shall be the sole charge assessed to CMRS providers~~
10 ~~relating to emergency telephone services.~~

11 ~~"(d) The board shall serve without compensation,~~
12 ~~provided, however, that members of the board shall be entitled~~
13 ~~to be reimbursed for actual expenses and travel costs~~
14 ~~associated with their service.~~

15 ~~"(e) Nothing in this chapter shall be construed to~~
16 ~~constitute the regulation of the entry of or rates charged by~~
17 ~~CMRS providers for any service or feature which they provide~~
18 ~~to their CMRS service customers, or to prohibit a CMRS~~
19 ~~provider from charging a CMRS service customer for any service~~
20 ~~or feature provided to the customer.~~

21 ~~"(f) Subsection (k) of Section 40-21-121 shall apply~~
22 ~~to the CMRS emergency telephone service charge imposed in this~~
23 ~~section.~~

24 ~~"(g) The board shall be subject to the Alabama~~
25 ~~Sunset Law under Chapter 20 of Title 41, shall be classified~~
26 ~~an enumerated agency under Section 41-20-3, and shall~~
27 ~~terminate on October 1, 2000, and every four years thereafter,~~

1 ~~unless continued as therein provided. If continued, the board~~
2 ~~shall be reviewed every four years thereafter and terminated~~
3 ~~unless continued into law.~~

4 "(a) CMRS providers are eligible for reimbursement
5 from the 911 Fund as set forth in subsection (c) of Section
6 11-98-5.1. To obtain reimbursement, a CMRS provider shall
7 comply with all of the following:

8 "(1) Invoices shall be sworn.

9 "(2) All costs and expenses must be commercially
10 reasonable.

11 "(3) All invoices for reimbursement shall be
12 directly related to compliance with the requirements of
13 enhanced 911 service.

14 "(4) The board shall adopt rules providing for prior
15 approval of any expenditures for which the CMRS provider
16 intends to seek reimbursement in excess of a threshold amount.

17 "(5) All invoices shall be supported by such
18 reasonable supporting document required by the board and shall
19 be subject to audit.

20 "(b) If the total amount of invoices submitted to
21 the 911 Board and approved for payment in a month exceeds the
22 amount available from the 911 Fund for reimbursements to CMRS
23 providers, the amount payable to each CMRS provider shall be
24 reduced proportionately so that the amount paid does not
25 exceed the amount available for payment. The balance of the
26 payment is deferred to the following month. A deferred payment

1 accrues interest at a rate equal to the rate earned by the 911
2 Fund until it is paid.

3 "§11-98-9.

4 "All technical proprietary information submitted to
5 the board or to the independent third-party auditor as
6 provided by Section ~~11-98-7(b)(5)~~ 11-98-12 shall be retained
7 by the board and the auditor in confidence and shall be
8 subject to review only by the Examiners of Public Accounts.
9 Notwithstanding any other provision of the law, no technical
10 proprietary information submitted shall be subject to subpoena
11 or otherwise released to any person other than to the
12 submitting ~~CMRS~~ voice communication provider, the board, and
13 the independent third-party auditor without the express
14 permission of the administrator and the submitting ~~CMRS~~ voice
15 communication provider. General information collected by the
16 independent third-party auditor shall only be released or
17 published in aggregate amounts which do not identify or allow
18 identification of numbers of subscribers or revenues
19 attributable to an individual ~~CMRS~~ voice communication
20 provider. Notwithstanding any other provision of the law, no
21 district, political subdivision, ~~CMRS~~ voice communication
22 provider, ~~local exchange company,~~ or ~~their~~ its employees,
23 directors, officers, or agents shall be liable for any damages
24 in a civil action or subject to criminal prosecution resulting
25 from death, injury, or loss to persons or property incurred by
26 any person in connection with establishing, developing,
27 implementing, maintaining, operating, and otherwise providing

1 ~~wireless enhanced~~ 911 service in compliance with the
2 requirements established by the FCC Order 94-102 and ~~any rules~~
3 ~~and regulations which are or may be adopted by the FCC~~
4 ~~pursuant to the order,~~ or other state or federal requirement,
5 except in the case of willful or wanton misconduct."

6 Section 6. Sections 11-98-12 and 11-98-12.1 are
7 added to the Code of Alabama 1975, to read as follows:

8 §11-98-12.

9 On a biennial basis, if not more frequently, the 911
10 Board shall retain an independent, third-party auditor for the
11 purposes of receiving, maintaining, and verifying the accuracy
12 of any and all information, including all proprietary
13 information, that is required to be collected, or that may
14 have been submitted to the board by voice communication
15 providers and districts, and the accuracy of the collection of
16 the 911 service charge required to be collected.

17 §11-98-12.1.

18 (a) The Permanent Oversight Commission on 911 is
19 established. The commission shall do the following:

20 (1) Study the operational and financial condition of
21 the current 911 systems within the State of Alabama and
22 publish a report detailing the same.

23 (2) Study the rate charged for wireline 911 services
24 and make recommendations to the board regarding adjustments to
25 the rate.

26 (3) Develop a long-term plan for the consolidation
27 and modernization of 911 districts and systems in the state.

1 (4) Develop legislation necessary to implement its
2 long-term 911 plan.

3 (5) Report its findings, recommendations, and
4 proposed legislation to the Legislature prior to the last day
5 of the 2012 Regular Session.

6 (b) The commission shall remain in place until
7 disbanded by the Legislature and shall submit a report
8 detailing the current financial condition of 911 systems and
9 progress in the implementation of the long-term plan no later
10 than the fifth legislative day of each regular session on a
11 continuing basis.

12 (c) The commission shall be comprised of the
13 following members:

14 (1) Three members of the House of Representatives,
15 to be appointed by the Speaker of the House of
16 Representatives.

17 (2) Three members of the Senate, to be appointed by
18 the President Pro Tempore of the Senate.

19 (3) One member to be appointed by the Director of
20 the Emergency Management Agency.

21 (4) One member to be appointed by the Director of
22 the Department of Finance.

23 (5) One member to be appointed by the Director of
24 the Department of Public Safety.

25 (d) The membership of the commission shall be
26 inclusive and reflect the racial, gender, geographic,
27 urban/rural, and economic diversity of the state. The

1 commission shall annually report to the Legislature by the
2 second legislative day of each regular session the extent to
3 which the commission has complied with the diversity
4 provisions provided for in this act.

5 (e) The chair and vice chair of the commission shall
6 be elected at the first meeting by the members of the
7 commission.

8 (f) Upon request of the chair, the Secretary of the
9 Senate and the Clerk of the House of Representatives shall
10 provide necessary clerical assistance for the work of the
11 commission.

12 (g) Each legislative member of the commission shall
13 be entitled to his or her regular legislative compensation,
14 his or her per diem, and travel expenses for each day he or
15 she attends a meeting of the commission. Upon requisitions
16 signed by the chair of the commission, these payments shall be
17 paid out of any funds appropriated to the use of the
18 Legislature by means of warrants drawn by the Comptroller on
19 the State Treasury. Notwithstanding the foregoing, no member
20 shall receive additional legislative compensation or per diem
21 when the Legislature is in session or if a member is being
22 paid any other payments on the same dates for attendance on
23 other state business.

24 (h) The Department of Examiners of Public Accounts
25 shall gather and report to the commission the information
26 necessary to evaluate 911 emergency communications funding
27 across the State of Alabama as specified following on or

1 before the fifth legislative day of the 2012 Regular Session.
2 Each communications district established pursuant to this
3 section and the Commercial Mobile Radio Service Emergency
4 Telephone Services Board shall provide at least the
5 information specified to the Department of Examiners of Public
6 Accounts no later than 60 days following the end of the 2011
7 fiscal year.

8 (1) For wireline 911 and for fiscal years ending
9 2005, 2006, 2007, 2008, 2009, 2010, and 2011, the information
10 provided by communications districts shall include:

11 a. 911 rates in effect for residence telephone
12 service and for business telephone service in the
13 communications district for each fiscal year.

14 b. 911 revenues collected by the communications
15 district by month for each fiscal year segregated by wireline
16 and Voice-Over-Internet-Protocol services.

17 c. Amount of any funding provided to the
18 communications district by a county or municipality in which
19 the communications district resides by month for each fiscal
20 year.

21 d. Amount of revenues received by the communications
22 district from the Commercial Mobile Radio Service Emergency
23 Telephone Services Board by month for each fiscal year.

24 e. Amount of any direct grants from federal or state
25 government and any state matches for federal, state, local, or
26 private grants for each fiscal year.

1 f. Gifts or other amounts not otherwise reported in
2 this section.

3 g. Amounts held in any savings or investment
4 accounts or reserve or escrow accounts by fiscal year.

5 h. How the 911 funds received by each district were
6 spent in each fiscal year.

7 (2) For wireless 911 and for fiscal years ending
8 2005, 2006, 2007, 2008, 2009, 2010, and 2011, the information
9 provided by the Commercial Mobile Radio Service Emergency
10 Telephone Services Board shall include:

11 a. 911 revenues received by month for each fiscal
12 year segregated between postpaid wireless service and prepaid
13 wireless service.

14 b. 911 revenues disbursed to each communications
15 district by month by fiscal year.

16 c. Amounts of any direct grants from federal or
17 state government and any state matches for federal, state,
18 local, or private grants for each fiscal year.

19 d. Gifts or other amounts not otherwise reported in
20 this section.

21 e. Amounts held in any savings or investment
22 accounts or reserve or escrow accounts by fiscal year.

23 f. The amount of funds retained by the board for
24 operation of the board and identify how the funds retained
25 were spent in each fiscal year.

26 g. The amount of funds that were escrowed for the
27 purpose of reimbursing wireless carriers for cost recovery for

1 implementation for Phase I and Phase II 911 implementation
2 costs and the amounts paid to the wireless carriers for cost
3 recovery in each fiscal year segregated by Phase I and Phase
4 II.

5 (i) Each communications district that fails to
6 provide the information required by this section to the
7 Department of Examiners of Public Accounts by the deadline
8 specified in subsection (h) shall not be eligible to receive
9 distributions from the Commercial Mobile Radio Service
10 Emergency Telephone Services Board after the deadline.

11 (j) The Department of Examiners of Public Accounts
12 shall promulgate rules and a common financial reporting format
13 to establish annual reporting requirements applicable to all
14 communications districts and the Commercial Mobile Radio
15 Service Emergency Telephone Services Board that the committee
16 will need to monitor 911 surcharge rates, 911 revenues, and
17 the use of 911 funds on an ongoing annual basis. The
18 Department of Examiners of Public Accounts shall gather and
19 report to the committee the information necessary to evaluate
20 911 emergency communications funding across the State of
21 Alabama on an ongoing basis for the previous fiscal year on or
22 before the fifth legislative day of each regular session of
23 the Legislature.

24 (k) The annual reports of the communications
25 districts and the Commercial Mobile Radio Service Emergency
26 Telephone Services Board and any reports developed by the
27 committee shall be posted no later than 60 days following the

1 end of the fiscal year on a website to be determined by the
2 Department of Examiners of Public Accounts.

3 (1) To assist in the development of the long-term
4 plan for 911 in the state, the committee may solicit input
5 from members of the 911 districts in the state, from members
6 of the communications industry operating in the state, and if
7 deemed necessary, from 911 experts outside the state.

8 Section 7. The board shall be subject to the Alabama
9 Sunset Law, Chapter 20, Title 41, Code of Alabama 1975, as an
10 enumerated agency as provided in Section 41-20-3, Code of
11 Alabama 1975, and shall have a termination date of October 1,
12 2015, and every four years thereafter, unless continued
13 pursuant to the Alabama Sunset Law.

14 Section 8. The E-911 rate for wireline carriers
15 charged on the effective date of this section shall be frozen
16 until the commission established pursuant to Section 6 makes
17 its recommendations.

18 Section 9. Sections 11-98-5.1, 11-98-7.1, and
19 11-98-8, Code of Alabama 1975, are repealed.

20 Section 10. Section 11-98-4.1 and Section
21 11-98-12.1, Code of Alabama 1975, shall become effective
22 immediately following their passage and approval by the
23 Governor, or their otherwise becoming law. Section 11-98-5.3,
24 Code of Alabama 1975, shall become effective on the first day
25 of the seventh month following its passage and approval by the
26 Governor, or its otherwise becoming law. The remaining

1 provisions of this act shall become effective on October 1,
2 2012.