

1 SB285
2 127447-1
3 By Senators Keahey and Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 24-MAR-11

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8 SYNOPSIS: Under existing law, E-911 services in the
9 state are managed by a Commercial Mobile Radio
10 Service Board in each E-911 communications
11 district.

12 This bill would create a statewide E-911
13 Board to replace the existing Commercial Mobile
14 Radio Service Board. This bill would provide that
15 the board would collect an emergency telephone
16 service charge to be paid into an E-911 Fund. This
17 bill would provide for distribution to local
18 communications districts and commercial mobile
19 radio service providers.

20 This bill would provide guidelines for
21 commercial mobile radio service providers to
22 receive reimbursement for the costs associated with
23 implementing Phase II enhanced E-911 compliance and
24 for other expenses related to providing E-911
25 service.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to E-911 services, to amend Sections
5 11-98-1, 11-98-2, 11-98-4, 11-98-5, 11-98-5.1, 11-98-6,
6 11-98-7, 11-98-8, and 11-98-9, Code of Alabama 1975, to create
7 a single, statewide emergency service charge applicable to all
8 voice services provided within the state; to create a
9 statewide 911 Board, which shall replace and supersede the
10 existing Commercial Mobile Radio Service (CMRS) Board and
11 which would be responsible for establishing and collecting an
12 emergency telephone service charge; to distribute the funds
13 collected from the service charge to communications districts
14 and CMRS providers; and to repeal Section 11-98-7.1, Code of
15 Alabama 1975.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§11-98-1.

20 "As used in this chapter, the following words and
21 terms have the following meanings, unless the context clearly
22 indicates otherwise:

23 "(1) AUTOMATIC NUMBER IDENTIFICATION. An enhanced
24 911 service capability that enables the automatic display of
25 the 10-digit telephone number used to place a 911 call. The
26 term includes pseudo-automatic number identification, which

1 means an enhanced 911 service capability that enables
2 identification of the subscriber.

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

19 "(3) CMRS CONNECTION. Each mobile handset telephone
20 number assigned to a CMRS subscriber with a place of primary
21 use in Alabama.

22 "(4) CMRS PROVIDER. A person or entity that provides
23 CMRS.

24 ~~(1)~~(5) CREATING AUTHORITY. The municipal governing
25 body of any municipality or the governing body of any county
26 that, by passage of a resolution or ordinance, creates a

1 ~~communication~~ district within its respective jurisdiction in
2 accordance with this chapter.

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

8 ~~"(2)(7) DISTRICT. The A~~ communication district
9 created pursuant to this chapter.

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

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

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

4 "(8) ENHANCED 911, E-911, or E-911 SYSTEM. An
5 emergency telephone system that directs 911 calls to
6 appropriate public safety answering points by selective
7 routing based on the geographical location from which the call
8 originated, that provides the capability for automatic number
9 identification, and the features that the Federal
10 Communications Commission may require in the future. Such
11 system may include lines, facilities, and equipment necessary
12 for answering, transferring, and dispatching public emergency
13 telephone calls originated by persons within the serving area
14 who dial 911 but does not include dial tone first which may be
15 made available by the service provider based on the ability to
16 recover the costs associated with its implementation and, to
17 the extent required by law, consistent with tariffs with and
18 approved by the Alabama Public Service Commission.

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

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

26 "(11) PHASE II ENHANCED 911. An enhanced 911 system
27 that identifies the location of all 911 calls by longitude and

1 latitude in conformance with accuracy requirements established
2 by the Federal Communications Commission.

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

6 "a. The residential street address or the primary
7 business street address of the customer.

8 "b. Within the licensed service areas of the CMRS
9 provider.

10 "(13) PREPAID WIRELESS TELEPHONE SERVICE. A service
11 that meets all of the following requirements:

12 "a. Authorizes the purchase of CMRS, either
13 exclusively or in conjunction with other services.

14 "b. Must be paid for in advance.

15 "c. Is sold in units or dollars whose number or
16 dollar value declines with use and is known on a continuous
17 basis.

18 "(6)(14) PUBLIC SAFETY AGENCY. An agency of the
19 State of Alabama, or a functional division of a political
20 subdivision, that provides fire fighting, rescue, natural or
21 man-caused disaster, or major emergency response, law
22 enforcement, ambulance, or emergency medical services.

23 "(7) SERVICE SUPPLIER. Any person providing exchange
24 telephone service to any service user throughout the county or
25 municipality.

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

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

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

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

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

17 "(17) SUBSCRIBER. A person who purchases a voice
18 communications service and is able to receive it or use it
19 periodically over time.

20 "(18) TECHNICAL PROPRIETARY INFORMATION. Technology
21 descriptions, technical information, or trade secrets,
22 including the term trade secrets as defined by the Alabama
23 Trade Secrets Act of 1987, Chapter 27 of Title 8, and the
24 actual or developmental costs thereof which are developed,
25 produced, or received internally by a voice communications
26 service provider or by its employees, directors, officers, or
27 agents.

1 "(19) VOICE COMMUNICATIONS SERVICE. Any of the
2 following:

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

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

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

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

15 "§11-98-2.

16 "The creating authority may by ordinance or
17 resolution, as may be appropriate, create within its
18 respective jurisdiction ~~communications~~ districts composed of
19 the territory lying wholly within the municipality or of any
20 part or all of the territory lying wholly within the county.
21 The districts shall be political and legal subdivisions of the
22 state, with power to sue and be sued in their corporate names
23 and to incur debt and issue bonds. The bonds shall be
24 negotiable instruments and shall be solely the obligations of
25 the district and not the State of Alabama. The bonds and the
26 income thereof shall be exempt from all taxation in the State
27 of Alabama. The bonds shall be payable out of the income,

1 revenues, and receipts of the district. The bonds shall be
2 authorized and issued by resolution or ordinance of the
3 creating authority of the district and shall be of such
4 series, bear such date or dates, mature at such time or times,
5 not to exceed 30 years from issuance, bear interest at such
6 rate or rates, be in such denominations, be in such form,
7 without coupon or fully registered without coupon, carry such
8 registration and exchangeability privileges, be payable in
9 such medium of payment and at such place or places, be subject
10 to such terms of redemption, and be entitled to the priorities
11 on the income, revenues, and receipts of the district as the
12 resolution or ordinance may provide.

13 "All bonds shall contain a recital that they are
14 issued pursuant to this chapter, which recitals shall be
15 conclusive that they have been duly authorized pursuant to
16 this chapter.

17 "§11-98-4.

18 "(a) When any district is created, the creating
19 authority may appoint a board of commissioners composed of
20 seven members to govern its affairs, and shall fix the
21 domicile of the board of commissioners at any point within the
22 district. In the case of county districts, after the
23 expiration of the terms of the members of the board of
24 commissioners holding office on May 23, 2000, there may be at
25 least one member of the board of commissioners from each
26 county commission district if the number of the county
27 commission does not exceed seven, unless a resolution dated

1 before January 1, 2000, was passed by a county commission
2 establishing an appointment process different from this
3 section or as otherwise provided by the enactment of a local
4 act after May 23, 2000. The members of the board of
5 commissioners shall be qualified electors of the district, two
6 of whom shall be appointed for terms of two years, three for
7 terms of three years, and two for terms of four years, dating
8 from the date of the adoption of the resolution or ordinance
9 creating the district. Thereafter, all appointments of the
10 members shall be for terms of four years.

11 "(b) The board of commissioners shall have complete
12 and sole authority to appoint a chairman and any other
13 officers it may deem necessary from among the membership of
14 the board of commissioners.

15 "(c) A majority of the board of commissioners
16 membership shall constitute a quorum and all official action
17 of the board of commissioners shall require a quorum.

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

22 "(e) In lieu of appointing a board of commissioners,
23 the governing body of the creating authority may serve as the
24 board of commissioners of the district, in which case it shall
25 assume all the powers and duties of the board of commissioners
26 as provided in this chapter.

1 "(f) In addition to other authority and powers
2 necessary to establish, operate, maintain, and replace an
3 emergency communication system, the board of commissioners
4 shall have the following authority:

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

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

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

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

17 "(5) To provide for such liability and hazard
18 insurance as the board of commissioners may deem advisable to
19 include inclusion and continuation, or both, of district
20 employees in state, county, municipal, or self-funded
21 liability insurance programs.

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

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

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

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

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

9 "(3) The name of the corporation.

10 "(4) That the governing body is the board of
11 commissioners.

12 "(h) Any other provisions of this chapter
13 notwithstanding, the board of commissioners shall present to
14 the creating authority for approval the acquisition,
15 disposition, or improvements to real property.

16 "(i) In addition to the provisions of subdivision
17 (5) of subsection (f), each employee or official of the
18 district who receives funds or is involved in the disbursement
19 of funds in any manner shall be bonded in an amount not less
20 than the amount of total funds received by the district in the
21 prior fiscal year. The bonds shall be paid for by the
22 district, and a copy shall be on file at the offices of the
23 district and at the office of the judge of probate of the
24 county in which the district is incorporated."

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

27 §11-98-4.1.

1 There is created a statewide 911 Board comprised of
2 13 members that shall reflect the racial, gender, geographic,
3 urban/rural, and economic diversity of the state. The 911
4 Board shall annually report to the Legislature by the second
5 legislative day of each regular session the extent to which
6 the board has complied with the diversity provisions provided
7 for in this act. The 911 Board shall be created effective July
8 1, 2011, and until the effective date of the statewide 911
9 charge pursuant to Section 11-98-5, with the cooperation of
10 the CMRS Board, shall plan for the implementation of the
11 statewide 911 charge and the distribution of the revenues as
12 provided herein. The reasonable administrative expenses
13 incurred by the 911 Board prior to the implementation of the
14 statewide 911 charge may be deducted from the existing CMRS
15 Fund. Upon the effective date of the new statewide 911 charge,
16 the 911 Board shall replace and supersede the CMRS Board
17 formerly created pursuant to this chapter, and the CMRS Fund
18 shall be incorporated into, and considered part of, the 911
19 Fund.

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

23 (1) Seven members recommended by the districts.

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

1 (3) Two members recommended by incumbent local
2 exchange carriers operating in Alabama, who shall not be from
3 the same local exchange.

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

7 (c) For purposes of the initial board appointments,
8 four members of the board will be appointed for a four-year
9 term, four members for a three-year term, and the remaining
10 three members for a two-year term. Thereafter, board members
11 shall serve staggered terms of four years. In the event of a
12 vacancy, a vacancy shall be filled for the balance of the
13 unexpired term in the same manner as the original appointment.
14 Any vacancy occurring on the 911 Board, whether for an expired
15 or unexpired term, shall be filled by appointment as soon as
16 practicable after a vacancy occurs, whether for an expired or
17 unexpired term.

18 (d) For all terms expiring after July 1, 2014,
19 appointments made by the Governor shall be subject to
20 confirmation by the Senate as provided in this subsection.
21 Appointments made at times when the Senate is not in session
22 shall be effective immediately ad interim and shall serve
23 until the Senate acts on the appointment as provided herein.
24 Any appointment made by the Governor while the Senate is in
25 session shall be submitted to the Senate not later than the
26 third legislative day following the date of the appointment.
27 Any appointment made while the Senate is not in session shall

1 be submitted not later than the third legislative day
2 following the reconvening of the Legislature. In the event the
3 Senate fails or refuses to act on the appointment, the person
4 whose name was submitted shall continue to serve until action
5 is taken on the appointment by the Senate.

6 (e) The statewide 911 Board shall have the following
7 powers and duties:

8 (1) To develop a 911 State Plan. In fulfilling this
9 duty, the 911 Board shall monitor trends in voice
10 communications service technology and in enhanced 911 service
11 technology, investigate and incorporate Geographical
12 Information Systems, (GIS) mapping and other resources into
13 the plan, and formulate strategies for the efficient and
14 effective delivery of enhanced 911 service.

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

17 (3) To distribute revenue in the 911 Fund in
18 accordance with this chapter, and to recommend any needed
19 changes to the distribution formula.

20 (4) To establish policies and procedures, adopted in
21 accordance with the Alabama Administrative Procedure Act, to
22 fund advisory services and training for districts and to
23 provide funds in accordance with these policies and
24 procedures.

25 (5) To investigate the revenues and expenditures
26 associated with the operation of a district to ensure

1 compliance with restrictions on the use of amounts distributed
2 from the 911 Fund.

3 (6) To make and enter into contracts and agreements
4 necessary or incidental to the performance of its powers and
5 duties under this chapter and to use revenue available to the
6 911 Board under Section 11-98-5 for administrative expenses to
7 pay its obligations under the contracts and agreements.

8 (7) To accept gifts, grants, or other money for the
9 911 Fund.

10 (8) To undertake its duties in a manner that is
11 competitively and technologically neutral as to all voice
12 communications service providers.

13 (9) To adopt rules in accordance with the Alabama
14 Administrative Procedure Act to implement this chapter and to
15 establish the statewide 911 charge; and, in response to
16 technological changes, apply the statewide 911 charge, without
17 duplication, to service connections of other originating
18 service providers, subject to the provisions applicable to
19 voice communication service providers under this chapter. This
20 authority does not include the regulation of any enhanced 911
21 service, such as the establishment of technical standards.

22 (10) To take other necessary and proper action to
23 implement this chapter.

24 Section 3. Sections 11-98-5, 11-98-5.1, 11-98-6,
25 11-98-7, 11-98-8, and 11-98-9, Code of Alabama 1975, are
26 amended to read as follows:

27 "§11-98-5.

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

22 ~~"(2) On and after January 1, 1992, the board of~~
23 ~~commissioners, once so authorized by a vote of a majority of~~
24 ~~the persons voting in the district to levy an emergency~~
25 ~~telephone service charge, may implement any rate of the~~
26 ~~emergency telephone service charge permitted under this~~

1 ~~section, as it may be amended from time to time, without~~
2 ~~further authorization.~~

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

15 ~~"(c) An emergency telephone service charge shall be~~
16 ~~imposed only upon the amount received from the tariff rate for~~
17 ~~exchange access lines. If there is no separate exchange access~~
18 ~~charge stated in the service supplier's tariffs, the board of~~
19 ~~commissioners shall determine a uniform percentage not in~~
20 ~~excess of 85 percent of the tariff rate for basic exchange~~
21 ~~telephone service that shall be deemed to be the equivalent of~~
22 ~~tariff rate exchange access lines, until the service supplier~~
23 ~~establishes the tariff rate. No service charge shall be~~
24 ~~imposed upon more than 100 exchange access facilities per~~
25 ~~person, per location. Every billed service user shall be~~
26 ~~liable for any service charge imposed under this subsection~~
27 ~~until it has been paid to the service supplier. The duty of~~

1 ~~the service supplier to collect the service charge shall~~
2 ~~commence upon the date of its implementation, which shall be~~
3 ~~specified in the resolution calling the election. That~~
4 ~~emergency telephone service charge shall be added to and may~~
5 ~~be stated separately in the billing by the service supplier to~~
6 ~~the service user.~~

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

21 ~~"(e) The amounts collected by the service supplier~~
22 ~~attributable to any emergency telephone service charge shall~~
23 ~~be due monthly. The amount of service charge collected in one~~
24 ~~calendar month by the service supplier shall be remitted to~~
25 ~~the district no later than 30 days after the close of a~~
26 ~~calendar month. On or before the thirtieth day after the close~~
27 ~~of a calendar month, a return, in the form the board of~~

1 ~~commissioners and the service supplier agree upon, shall be~~
2 ~~filed with the district, together with a remittance of the~~
3 ~~amount of service charge collected payable to the district.~~
4 ~~The service supplier shall maintain records of the amount of~~
5 ~~the service charge collected for a period of at least two~~
6 ~~years from the date of collection. The board of commissioners~~
7 ~~may, at its expense, require an annual audit of the service~~
8 ~~supplier's books and records with respect to the collection~~
9 ~~and remittance of the service charge. From the gross receipts~~
10 ~~to be remitted to the district, the service supplier shall be~~
11 ~~entitled to retain an administrative fee in an amount equal to~~
12 ~~one percent.~~

13 ~~"(f) In order to provide additional funding or~~
14 ~~additional real or personal property for the district, the~~
15 ~~district or county or municipal governing body may receive~~
16 ~~federal, state, county, or municipal real or personal property~~
17 ~~and funds, as well as real or personal property and funds from~~
18 ~~private sources, and may expend the funds or use the property~~
19 ~~for the purposes of this chapter.~~

20 ~~"(g) With the agreement of the service supplier and~~
21 ~~the creating authority, two or more communication districts,~~
22 ~~or cities, or counties, or a city and a county in another~~
23 ~~communication district may agree to cooperate, to the extent~~
24 ~~practicable, to provide funding and service to their~~
25 ~~respective areas, and a single board of commissioners of not~~
26 ~~more than seven members may be appointed to conduct the~~
27 ~~affairs of the entities involved.~~

1 ~~"(h) A district may expend available funds to~~
2 ~~establish a common address and location identification program~~
3 ~~and to establish the emergency service number data base to~~
4 ~~facilitate efficient operation of the system. The governing~~
5 ~~body and the E-911 board of the county or city affected shall~~
6 ~~jointly be responsible for purchasing and installing the~~
7 ~~necessary signs to properly identify all roads and streets in~~
8 ~~the district.~~

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

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

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

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

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

26 ~~"(a) A single, monthly statewide 911 charge shall be~~
27 ~~imposed on each active voice communications service connection~~

1 in Alabama that is technically capable of accessing a 911
2 system. For CMRS providers, the statewide 911 charge shall be
3 levied on each CMRS connection with a primary place of use in
4 the State of Alabama. The statewide 911 charge is payable by
5 the subscriber to the voice communications service provider.
6 Except as otherwise provided in this chapter, the voice
7 communications service provider shall list the statewide 911
8 charge separately from other charges on the bill and the
9 charge shall be collected according to the regular billing
10 practice of the voice communications service provider. The
11 statewide 911 charge collected under this section shall not be
12 subject to taxes or charges levied on or by the voice
13 communications service provider nor shall the charges and fees
14 be considered revenue of the voice communications service
15 provider for any purposes. Partial payments made by a
16 subscriber are applied first to the amount owed for voice
17 communications service. The 911 Board shall collect from each
18 voice communications service provider the monthly statewide
19 911 charges prescribed herein. The statewide 911 charge shall
20 be initially set by the 911 Board at an amount calculated to
21 produce annual total revenues equal to the annual 911 fees
22 collected by or on behalf of districts and governmental bodies
23 as of September 30, 2011, plus an amount equal to any other
24 taxpayer funding of E-911 systems by counties or
25 municipalities in areas where no separate 911 fee is imposed.
26 The statewide 911 charge shall be uniformly applied and shall
27 be imposed throughout the state, and shall replace all other

1 911 fees or 911 taxes. The 911 Board shall certify that the
2 initial statewide 911 charge adopted herein is reasonably
3 calculated so as not to result in an increase in the fees or
4 taxes paid by Alabama consumers to support 911 services on a
5 statewide basis as of the date of its implementation.

6 "(b) Notwithstanding any other provision of this
7 chapter, a voice communications service provider of prepaid
8 wireless telephone service shall collect and remit to the 911
9 Board the statewide 911 charge imposed upon prepaid wireless
10 telephone subscribers in the state under one of the following
11 methods:

12 "(1) Collecting the statewide 911 charge from each
13 active prepaid wireless telephone service subscriber whose
14 account balance is equal to or greater than the amount of the
15 service charge.

16 "(2) Dividing the provider's total earned prepaid
17 wireless telephone service revenue received for the month from
18 each active prepaid wireless telephone service subscriber by
19 thirty dollars (\$30) and multiplying the quotient by the
20 amount of the statewide 911 charge.

21 "(c) A voice communications service provider shall
22 remit the statewide 911 charge collected by it under this
23 section to the 911 Board, utilizing such electronic or paper
24 reporting forms that may be adopted by the 911 Board by rule.
25 The provider shall remit the collected charges by the end of
26 the calendar month following the month the provider received
27 the charges from its subscribers. A voice communications

1 service provider may deduct and retain from the statewide 911
2 charges it receives from its subscribers and remits to the 911
3 Board an administrative allowance in an amount equal to one
4 percent. The voice communications service provider shall
5 maintain records of the amount of the statewide 911 fees
6 collected for a period of at least two years from the date of
7 collection. Good faith compliance by the voice communications
8 service supplier with this chapter shall constitute a complete
9 defense to any legal action or claim that may result from the
10 voice communications service provider's determination of
11 nonpayment or the identification of service users, or both.

12 "(d) The 911 Board shall monitor the revenues
13 generated by the statewide 911 charge. If the 911 Board
14 determines that the rate produces revenue in excess of the
15 amount needed, the 911 Board shall reduce the rate effective
16 July 1 of the year. The reduced rate shall ensure full cost
17 recovery for districts over a reasonable period of time. The
18 911 Board shall notify providers of a change in the rate at
19 least 90 days before the change becomes effective.

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

1 Board may request, to the extent permitted by federal and
2 state privacy laws, the name, address, and telephone number of
3 a subscriber who refuses to pay the statewide 911 charge.

4 "(f) No district may impose a service charge or
5 other fee on a subscriber to support a 911 system.

6 "(g) At any time after October 1, 2013, should the
7 911 Board determine that the revenues allocated to districts
8 under subdivision (2) of subsection (b) of Section 11-98-5.1
9 for reimbursement to CMRS providers for Phase II Enhanced 911
10 compliance costs exceed those necessary to meet funding
11 requirements, it may distribute any excess revenues in
12 accordance with subdivision (1) of subsection (b) of Section
13 11-98-5.1.

14 "§11-98-5.1.

15 ~~"(a) The tariff rate to be utilized in determining~~
16 ~~the maximum rate of the emergency communication district fee~~
17 ~~authorized to be levied in each district pursuant to Section~~
18 ~~11-98-5 shall be determined by utilizing either of the~~
19 ~~following rates at the discretion of the board of~~
20 ~~commissioners of each emergency communication district:~~

21 ~~"(1) The maximum tariff charged for any bundled~~
22 ~~service provided by any service supplier in the district on~~
23 ~~the date of the levy and collection of the fee.~~

24 ~~"(2) The maximum tariff charged for any bundled~~
25 ~~service provided by any service supplier in the district as it~~
26 ~~existed on February 1, 2005, and adjusted as prescribed in~~
27 ~~subsection (b).~~

1 "~~(b) A record of maximum tariff rates for any~~
2 ~~service provided in the district as the maximum tariff existed~~
3 ~~on February 1, 2005, shall be maintained by the Public Service~~
4 ~~Commission and shall be published on the Internet website or~~
5 ~~similar communication system operated by the commission. The~~
6 ~~maximum tariff as it existed on February 1, 2005, shall be~~
7 ~~adjusted once every five years, beginning on February 1, 2010,~~
8 ~~by the percentage increase in the Consumer Price Index over~~
9 ~~the preceding five calendar years. This adjusted rate shall~~
10 ~~also be published by the Public Service Commission beginning~~
11 ~~in February of 2010.~~

12 "~~(c) The emergency communication district fee~~
13 ~~authorized and levied in each district pursuant to Section~~
14 ~~11-98-5 shall apply to all wired telephone service utilized~~
15 ~~within the district, including such service provided through~~
16 ~~Voice-Over-Internet Protocol (VoIP) or other similar~~
17 ~~technology. It shall be the duty of each provider of VoIP or~~
18 ~~similar service to collect the fee for each 10-digit access~~
19 ~~number assigned to the user and to remit such fee as provided~~
20 ~~in Section 11-98-5.~~

21 "(a) The 911 Fund is created as an insured
22 interest-bearing account into which the 911 Board shall
23 deposit all revenues derived from the service charge levied on
24 voice communications service providers and collected pursuant
25 to subsection (a) of Section 11-98-5. The revenues deposited
26 into the 911 Fund shall not be monies or property of the state
27 and shall not be subject to appropriation by the Legislature.

1 The 911 Board shall administer the fund and shall credit the
2 911 Fund all revenues received. The fund and revenues
3 generated by the fund may only be used as provided in this
4 chapter.

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

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

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

25 "b. The per capita distribution amount which shall
26 be the district's share of the 911 Fund revenues collected
27 under this subsection in excess of that needed for

1 distribution to districts under paragraph a. as base
2 distribution amounts, if any. The per capita distribution
3 amount shall be distributed in a accordance with the
4 distribution formula.

5 "(2) Subject to subsection (g) of Section 11-98-5,
6 20 percent of the funds remitted by CMRS providers shall be
7 deposited into a separate account and shall be used solely for
8 the purpose of payment of the actual and direct costs incurred
9 by CMRS providers in providing Phase II Enhanced 911 and
10 complying with any rules or regulations which are or may be
11 adopted by the FCC pursuant to the FCC Order, including, but
12 not limited to, costs and expenses incurred for designing,
13 upgrading, purchasing, leasing, programming, installing,
14 testing, or maintaining all necessary data, hardware, and
15 software required in order to provide the service as well as
16 the incremental costs of operating the service.

17 "(c) Each CMRS provider wishing to participate in
18 the payments provided in subdivision (2) of subsection (b) of
19 Section 11-98-5 for expenses related to providing Phase II
20 Enhanced 911 shall certify to the 911 Board that it does not
21 then collect a cost-recovery or other similar separate charge
22 from its customers. CMRS providers failing to provide the
23 certification by October 1 are ineligibile to receive any
24 payments until such certificate is provided to the 911 Board.
25 Any CMRS provider electing to collect cost-recovery or other
26 similar separate charges at any time following its October 1
27 certification shall immediately notify the 911 Board and are

1 ineligible to participate in the payments established in this
2 subsection until ceasing the collection from its customers and
3 providing the notice required herein. This requirement shall
4 only apply to payments for expenses related to providing Phase
5 II Enhanced 911.

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

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

15 "§11-98-6.

16 "As used in this section and Sections 11-98-7,
17 11-98-8, and 11-98-9, the following terms shall have the
18 following meanings:

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

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

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

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

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

25 ~~"(6) CMRS CUSTOMER. A person, business, corporation,~~
26 ~~or other entity that purchases, utilizes, or otherwise obtains~~

1 ~~wireless CMRS service, other than CMRS service sold to an~~
2 ~~entity for the purpose of resale.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~"(20) TECHNICAL PROPRIETARY INFORMATION. Technology~~
25 ~~descriptions, technical information, or trade secrets,~~
26 ~~including the term trade secrets as defined by the Alabama~~
27 ~~Trade Secrets Act of 1987, Section 8-27-1 et seq., and the~~

1 ~~actual or developmental costs thereof which are developed,~~
2 ~~produced, or received internally by a CMRS provider or by a~~
3 ~~CMRS provider's employees, directors, officers, or agents.~~

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

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

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

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

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

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

24 "(b) A district or county or municipal governing
25 body may receive federal, state, county, or municipal real or
26 personal property and funds, as well as real or personal

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

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

11 "(d) Subject to rules that may be adopted by the 911
12 Board, a district may expend available funds to establish a
13 common address and location identification program and to
14 establish the emergency service number data base to facilitate
15 efficient operation of the system.

16 "§11-98-7.

17 ~~"(a) There is created a Commercial Mobile Radio~~
18 ~~Service (CMRS) Board, consisting of seven members who shall be~~
19 ~~citizens of this state and shall reflect the racial, gender,~~
20 ~~geographic, urban and rural, and economic diversity of the~~
21 ~~state.~~

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

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

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

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

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

7 ~~"a. One member of the House of Representatives~~
8 ~~appointed by the Speaker of the House.~~

9 ~~b. One member of the Senate appointed by the~~
10 ~~Lieutenant Governor.~~

11 ~~"(3) The term of each member shall be four years,~~
12 ~~except that of the members first appointed, one representing~~
13 ~~ECDs shall serve for three years and one representing CMRS~~
14 ~~providers shall serve for three years, one representing ECDs~~
15 ~~shall serve two years and one representing CMRS providers~~
16 ~~shall serve two years. The Governor shall designate the term~~
17 ~~which each of the members first appointed shall serve when he~~
18 ~~or she makes appointments. The two legislative members shall~~
19 ~~serve for the length of their elective service, but no more~~
20 ~~than four years.~~

21 ~~"(4) In the event of a vacancy, a vacancy shall be~~
22 ~~filled for the balance of the unexpired term in the same~~
23 ~~manner as the original appointment. Any vacancy occurring on~~
24 ~~the board, whether for an expired or unexpired term, shall be~~
25 ~~filled by appointment by the appointing authority as soon as~~
26 ~~practicable after a vacancy occurs, whether for an expired or~~
27 ~~unexpired term.~~

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

16 ~~(b) The board shall have the following powers and~~
17 ~~duties:~~

18 ~~"(1) To levy a CMRS emergency telephone service~~
19 ~~charge on each CMRS connection that has a place of primary use~~
20 ~~within the geographical boundaries of the State of Alabama.~~
21 ~~The rate of the CMRS service charge shall be seventy cents~~
22 ~~(\$.70) per month per CMRS customer on each CMRS connection~~
23 ~~beginning on May 1, 1998, which amount shall not be increased~~
24 ~~except by the Legislature. The CMRS service charge shall have~~
25 ~~uniform application and shall be imposed throughout the state.~~
26 ~~The board shall receive all revenues derived from the CMRS~~

1 ~~service charge levied in the state and collected pursuant to~~
2 ~~Section 11-98-8.~~

3 ~~"(2) To establish and maintain the CMRS Fund as an~~
4 ~~insured, interest-bearing account into which the board shall~~
5 ~~deposit all revenues derived from the CMRS service charge~~
6 ~~levied on CMRS connections and collected pursuant to Section~~
7 ~~11-98-8. The revenues deposited into the CMRS Fund shall not~~
8 ~~be moneys or property of the state and shall not be subject to~~
9 ~~appropriation by the Legislature.~~

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

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

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

23 ~~"c. Twenty percent shall be deposited into a bank~~
24 ~~account and shall be used solely for the purpose of payment of~~
25 ~~the actual costs incurred by CMRS providers in complying with~~
26 ~~the wireless E-911 service requirements established by the FCC~~
27 ~~Order and any rules and regulations which are or may be~~

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

16 "d. Beginning no later than October 1, 2007, and no
17 later than each October 1 thereafter, each CMRS provider
18 wishing to participate in the payments provided in paragraph
19 c. for expenses related to the providing of Phase II Enhanced
20 911 Service shall certify to the board that it does not then
21 collect a cost-recovery or other similar separate charge from
22 its customers. CMRS providers failing to provide such
23 certification by October 1 shall be ineligible to receive such
24 payments for any such Phase II expenses incurred until such
25 certificate is provided to the board. Any CMRS provider
26 electing to collect cost-recovery or other similar separate
27 charges at any time following its October 1 certification

1 shall immediately notify the board and shall be ineligible to
2 participate in the payments established in this subsection
3 until ceasing such collection from its customers and providing
4 the notice required herein. This requirement shall only apply
5 to payments for expenses related to the provision of Phase II
6 Enhanced 911 Services.

7 "e. In the event that there are wireless emergency
8 telephone services which cannot be efficiently performed at
9 the ECD level or there are expenses which cannot be properly
10 allocated at the ECD level, any ECD or CMRS provider may
11 submit invoices directly to the board and the board shall
12 determine the smallest practical unit basis for joint
13 implementation.

14 "(4) To obtain, pursuant to subdivision (5), from an
15 independent, third-party auditor retained by the board a copy
16 of the annual reports to the Department of Examiners of Public
17 Accounts no later than 120 days after the close of each fiscal
18 year, which shall provide an accounting for all CMRS service
19 charges deposited into the CMRS Fund during the preceding
20 fiscal year and all disbursements to ECDs during the preceding
21 fiscal year. The Department of Examiners of Public Accounts
22 shall conduct an annual audit of the expenditures of the board
23 from all CMRS service charges from the CMRS Fund.

24 "(5) To retain, upon majority vote of the members of
25 the board who are present and voting, an independent,
26 third-party auditor for the purposes of receiving,
27 maintaining, and verifying the accuracy of any and all

1 information, including all proprietary information, that is
2 required to be collected, or that may have been submitted to
3 the board by CMRS providers and ECDs, and the accuracy of the
4 collection of the CMRS service charge required to be
5 collected. An audit, if conducted pursuant to this
6 subdivision, shall be conducted pursuant to Chapter 2A of
7 Title 40.

8 "~~(6) To conduct a cost study on or before July 1,~~
9 ~~1999, to be submitted to the Governor, the Lieutenant~~
10 ~~Governor, and the Speaker of the House of Representatives for~~
11 ~~the purpose of determining whether legislation should be~~
12 ~~proposed during the 2000 Regular Session of the Alabama~~
13 ~~Legislature to adjust the amount of the CMRS service charge to~~
14 ~~reflect actual costs to be incurred by CMRS providers and ECDs~~
15 ~~in order to comply with the wireless E-911 service~~
16 ~~requirements established by the FCC Order and any rules and~~
17 ~~regulations which are or may be adopted by the FCC pursuant to~~
18 ~~the FCC Order.~~

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

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

23 "~~(9) Neither the board nor any ECD shall require the~~
24 ~~CMRS providers to select or to deploy particular commercial~~
25 ~~solutions to meet the requirements of the FCC Order, provided~~
26 ~~the solutions chosen are compatible with the operations of the~~
27 ~~ECDs.~~

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

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

8 ~~"(e) Nothing in this chapter shall be construed to~~
9 ~~constitute the regulation of the entry of or rates charged by~~
10 ~~CMRS providers for any service or feature which they provide~~
11 ~~to their CMRS service customers, or to prohibit a CMRS~~
12 ~~provider from charging a CMRS service customer for any service~~
13 ~~or feature provided to the customer.~~

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

17 ~~"(g) The board shall be subject to the Alabama~~
18 ~~Sunset Law under Chapter 20 of Title 41, shall be classified~~
19 ~~an enumerated agency under Section 41-20-3, and shall~~
20 ~~terminate on October 1, 2000, and every four years thereafter,~~
21 ~~unless continued as therein provided. If continued, the board~~
22 ~~shall be reviewed every four years thereafter and terminated~~
23 ~~unless continued into law.~~

24 "(a) CMRS providers are eligible for reimbursement
25 from the 911 Fund as set forth in subsection (c) of Section
26 11-98-5.1. To obtain reimbursement, a CMRS provider shall
27 comply with all of the following:

1 "(1) Invoices shall be sworn.

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

4 "(3) All invoices for reimbursement shall be
5 directly related to compliance with the requirements of
6 enhanced 911 service.

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

10 "(5) All invoices shall be supported by such
11 reasonable supporting document required by the board and shall
12 be subject to audit.

13 "(b) If the total amount of invoices submitted to
14 the 911 Board and approved for payment in a month exceeds the
15 amount available from the 911 Fund for reimbursements to CMRS
16 providers, the amount payable to each CMRS provider shall be
17 reduced proportionately so that the amount paid does not
18 exceed the amount available for payment. The balance of the
19 payment is deferred to the following month. A deferred payment
20 accrues interest at a rate equal to the rate earned by the 911
21 Fund until it is paid.

22 "§11-98-8.

23 ~~"(a) Each CMRS provider shall act as a collection~~
24 ~~agent for the CMRS Fund and shall collect the CMRS service~~
25 ~~charges levied upon CMRS connections pursuant to Section~~
26 ~~11-98-7(b) (1) from each CMRS connection to whom the CMRS~~
27 ~~provider provides CMRS service and shall, not later than 60~~

1 ~~days after the end of the calendar month in which such CMRS~~
2 ~~service charges are collected, remit to the board the net CMRS~~
3 ~~service charges collected after deducting the fee authorized~~
4 ~~by subsection (b). Each billing provider shall list the CMRS~~
5 ~~service charge as a separate entry on each bill which includes~~
6 ~~a CMRS service charge.~~

7 ~~"(b) Each CMRS provider shall be entitled to deduct~~
8 ~~and retain from the CMRS service charges collected by the~~
9 ~~provider during each calendar month an amount not to exceed~~
10 ~~one percent of the gross aggregate amount of the CMRS service~~
11 ~~charges collected as reimbursement for the costs incurred by~~
12 ~~the provider in collecting, handling, and processing the CMRS~~
13 ~~service charges.~~

14 ~~"(c) The board shall be entitled to retain from the~~
15 ~~CMRS service charges collected during each calendar month an~~
16 ~~amount not to exceed two percent of the gross aggregate amount~~
17 ~~of such CMRS service charges collected as reimbursement for~~
18 ~~the costs incurred by the board in administering this chapter,~~
19 ~~including, but not limited to, retaining and paying the~~
20 ~~independent, third-party auditor to review and disburse the~~
21 ~~cost recovery funds and to prepare the reports contemplated by~~
22 ~~this chapter.~~

23 ~~"(d) The CMRS provider shall have no obligation to~~
24 ~~take any legal action to enforce the collection of the CMRS~~
25 ~~service charge. If a CMRS provider receives partial payment~~
26 ~~for a monthly bill from a CMRS subscriber, the CMRS provider~~
27 ~~shall apply the payment against the amount the CMRS subscriber~~

1 owes the CMRS provider first, and shall remit to the board the
2 lesser amount, if any, as shall result therefrom.

3 ~~"(e) The charges and fees collected under this~~
4 ~~section shall not be subject to taxes or charges levied on or~~
5 ~~by the CMRS provider, nor shall the charges and fees be~~
6 ~~considered revenue of the CMRS provider for any purposes. The~~
7 ~~CMRS provider shall annually provide to the emergency~~
8 ~~communications district management review board an accounting~~
9 ~~of the amounts billed and collected and of the disposition of~~
10 ~~the amounts.~~

11 ~~"(f) State and local taxes do not apply to the CMRS~~
12 ~~service charge.~~

13 ~~"(g) If a CMRS provider collects, but fails to~~
14 ~~remit, the CMRS service charges as provided herein or fails to~~
15 ~~collect the CMRS service charges, the provider shall be~~
16 ~~required to remit to the board the actual fees collected or~~
17 ~~that should have been collected and interest on the fees not~~
18 ~~remitted. The amount of the annual interest due shall be~~
19 ~~determined in accordance with Section 40-1-44. The board may~~
20 ~~seek the enforcement of this section in the Circuit Court of~~
21 ~~Montgomery County.~~

22 ~~"(h) The board shall treat as confidential the~~
23 ~~remittance information submitted by a CMRS provider, including~~
24 ~~the total dollar amount remitted, the number of service~~
25 ~~charges remitted, or any other information that the board~~
26 ~~could reasonably believe would reveal the number of CMRS~~

1 ~~customers who are being serviced by a particular carrier or~~
2 ~~any other proprietary information.~~

3 "The 911 Board shall give written notice of
4 violation to any district or voice communication provider
5 found by the 911 Board to be using monies from the 911 Fund
6 for purposes not authorized by this chapter. Such notice shall
7 occur within the later of: (1) one year of the audit findings
8 which revealed the unauthorized expenditure; or (2) five years
9 of the date of the unauthorized expenditure. Upon receipt of
10 notice, the district or voice communication provider shall
11 cease making any unauthorized expenditures. The district or
12 voice communication provider may petition the 911 Board for a
13 hearing on the question of whether the expenditures were
14 unauthorized within 60 days of receipt of notice from the
15 board, and the 911 Board shall grant the request within a
16 reasonable period of time. If, after the hearing, the 911
17 Board concludes that the expenditures were in fact
18 unauthorized, the 911 Board may require the district or voice
19 communication provider to refund the monies improperly spent
20 within 90 days. Money received under this section shall be
21 credited to the 911 Fund. If a CMRS provider or district does
22 not cease making unauthorized expenditures or refuses to
23 refund improperly spent money, the 911 Board shall suspend
24 funding to the district or voice communication provider until
25 corrective action is taken.

26 "§11-98-9.

1 "All technical proprietary information submitted to
2 the board or to the independent third-party auditor as
3 provided by Section ~~11-98-7(b)(5)~~ 11-98-12 shall be retained
4 by the board and the auditor in confidence and shall be
5 subject to review only by the Examiners of Public Accounts.
6 Notwithstanding any other provision of the law, no technical
7 proprietary information submitted shall be subject to subpoena
8 or otherwise released to any person other than to the
9 submitting ~~CMRS~~ voice communication provider, the board, and
10 the independent third-party auditor without the express
11 permission of the administrator and the submitting ~~CMRS~~ voice
12 communication provider. General information collected by the
13 independent third-party auditor shall only be released or
14 published in aggregate amounts which do not identify or allow
15 identification of numbers of subscribers or revenues
16 attributable to an individual ~~CMRS~~ voice communication
17 provider. Notwithstanding any other provision of the law, no
18 district, political subdivision, ~~CMRS~~ voice communication
19 provider, ~~local exchange company,~~ or ~~their~~ its employees,
20 directors, officers, or agents shall be liable for any damages
21 in a civil action or subject to criminal prosecution resulting
22 from death, injury, or loss to persons or property incurred by
23 any person in connection with establishing, developing,
24 implementing, maintaining, operating, and otherwise providing
25 ~~wireless enhanced~~ 911 service in compliance with the
26 requirements established by the FCC ~~Order 94-102~~ and any rules
27 and regulations which are or may be adopted by the FCC

1 ~~pursuant to the order, or other state or federal requirement,~~
2 except in the case of willful or wanton misconduct."

3 Section 4. Section 11-98-12 is added to the Code of
4 Alabama 1975, to read as follows:

5 §11-98-12.

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

14 Section 5. Section 11-98-7.1, Code of Alabama 1975,
15 is repealed.

16 Section 6. Section 11-98-4.1, Code of Alabama 1975,
17 shall become effective immediately following its passage and
18 approval by the Governor, or its otherwise becoming law. The
19 remaining provisions of this act shall become effective on
20 October 1, 2012.