

**As Passed by the House**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 402**

**Representative Hill**

**Cosponsors: Representatives Smith, R., Lang, Seitz, Becker, Celebrezze, Scherer, Rezabek, Riedel, Koehler, Manning, Kick, Reineke, Blessing, Romanchuk**

---

**A BILL**

To amend sections 128.01, 128.32, 4905.402, 1  
4905.61, 4927.02, 4927.101, 4927.12, 4927.17, 2  
and 4927.19 and to enact sections 4927.121, 3  
4927.122, 4927.123, 4927.124, and 4927.125 of 4  
the Revised Code to revise state regulation of 5  
telephone companies. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 128.01, 128.32, 4905.402, 7  
4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 4927.19 be 8  
amended and sections 4927.121, 4927.122, 4927.123, 4927.124, and 9  
4927.125 of the Revised Code be enacted to read as follows: 10

**Sec. 128.01.** As used in this chapter: 11

(A) "9-1-1 system" means a system through which 12  
individuals can request emergency service using the telephone 13  
number 9-1-1. 14

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller 15  
provides information on the nature of and the location of an 16  
emergency, and the personnel receiving the call must determine 17

the appropriate emergency service provider to respond at that 18  
location. 19

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of 20  
providing both enhanced wireline 9-1-1 and wireless enhanced 9- 21  
1-1. 22

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in 23  
which the wireline telephone network, in providing wireline 9-1- 24  
1, automatically does either of the following: 25

(1) Automatically routes the call to emergency service 26  
providers that serve the location from which the call is made 27  
and immediately provides to personnel answering the 9-1-1 call 28  
information on the location and the telephone number from which 29  
the call is being made; 30

(2) Receives, develops, collects, or processes requests 31  
for emergency assistance and relays, transfers, operates, 32  
maintains, or provides emergency notification services or system 33  
capabilities. 34

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, 35  
in providing wireless 9-1-1, has the capabilities of phase I 36  
and, to the extent available, phase II enhanced 9-1-1 services 37  
as described in 47 C.F.R. 20.18 (d) to (h). 38

(F) (1) "Wireless service" means federally licensed 39  
commercial mobile service as defined in 47 U.S.C. 332(d) and 40  
further defined as commercial mobile radio service in 47 C.F.R. 41  
20.3, and includes service provided by any wireless, two-way 42  
communications device, including a radio-telephone 43  
communications line used in cellular telephone service or 44  
personal communications service, a network radio access line, or 45  
any functional or competitive equivalent of such a radio- 46

telephone communications or network radio access line.	47
(2) Nothing in this chapter applies to paging or any service that cannot be used to call 9-1-1.	48 49
(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.	50 51 52
(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.	53 54 55
(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.	56 57 58
(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.	59 60 61
(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.	62 63 64 65 66
(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.	67 68 69 70 71
(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance	72 73 74

district, or joint emergency medical services district that 75  
provides emergency service within its territory, or that 76  
contracts with another municipal corporation, township, or 77  
district or with a private entity to provide such service; and a 78  
state college or university, port authority, or park district of 79  
any kind that employs law enforcement officers that act as the 80  
primary police force on the grounds of the college or university 81  
or port authority or in the parks operated by the district. 82

(N) "Emergency service" means emergency law enforcement, 83  
firefighting, ambulance, rescue, and medical service. 84

(O) "Emergency service provider" means the state highway 85  
patrol and an emergency service department or unit of a 86  
subdivision or that provides emergency service to a subdivision 87  
under contract with the subdivision. 88

(P) "Public safety answering point" means a facility to 89  
which 9-1-1 system calls for a specific territory are initially 90  
routed for response and where personnel respond to specific 91  
requests for emergency service by directly dispatching the 92  
appropriate emergency service provider, relaying a message to 93  
the appropriate provider, or transferring the call to the 94  
appropriate provider. 95

(Q) "Customer premises equipment" means telecommunications 96  
equipment, including telephone instruments, on the premises of a 97  
public safety answering point that is used in answering and 98  
responding to 9-1-1 system calls. 99

(R) "Municipal corporation in the county" includes any 100  
municipal corporation that is wholly contained in the county and 101  
each municipal corporation located in more than one county that 102  
has a greater proportion of its territory in the county to which 103

the term refers than in any other county. 104

(S) "Board of county commissioners" includes the 105  
legislative authority of a county established under Section 3 of 106  
Article X, Ohio Constitution, or Chapter 302. of the Revised 107  
Code. 108

(T) "Final plan" means a final plan adopted under division 109  
(B) of section 128.08 of the Revised Code and, except as 110  
otherwise expressly provided, an amended final plan adopted 111  
under section 128.12 of the Revised Code. 112

(U) "Subdivision served by a public safety answering 113  
point" means a subdivision that provides emergency service for 114  
any part of its territory that is located within the territory 115  
of a public safety answering point whether the subdivision 116  
provides the emergency service with its own employees or 117  
pursuant to a contract. 118

(V) A township's population includes only population of 119  
the unincorporated portion of the township. 120

(W) "Telephone company" means a company engaged in the 121  
business of providing local exchange telephone service by making 122  
available or furnishing access and a dial tone to persons within 123  
a local calling area for use in originating and receiving voice 124  
grade communications over a switched network operated by the 125  
provider of the service within the area and gaining access to 126  
other telecommunications services. ~~"Telephone-Unless otherwise~~ 127  
~~specified, "telephone company" includes a wireline service~~ 128  
~~provider and, a wireless service provider-unless otherwise~~ 129  
~~expressly specified, and any entity that is a covered 9-1-1~~ 130  
~~service provider under 47 C.F.R. 12.4. For purposes of sections~~ 131  
128.25 and 128.26 of the Revised Code, "telephone company" means 132

a wireline service provider.	133
(X) "Prepaid wireless calling service" has the same	134
meaning as in division (AA) (5) of section 5739.01 of the Revised	135
Code.	136
(Y) "Provider of a prepaid wireless calling service" means	137
a wireless service provider that provides a prepaid wireless	138
calling service.	139
(Z) "Retail sale" has the same meaning as in section	140
5739.01 of the Revised Code.	141
(AA) "Seller" means a person that sells a prepaid wireless	142
calling service to another person by retail sale.	143
(BB) "Consumer" means the person for whom the prepaid	144
wireless calling service is provided, to whom the transfer	145
effected or license given by a sale is or is to be made or	146
given, to whom the prepaid wireless calling service is charged,	147
or to whom the admission is granted.	148
(CC) "Reseller" means a nonfacilities-based provider of	149
wireless service that provides wireless service under its own	150
name to one or more end users in this state using the network of	151
a wireless service provider.	152
(DD) "Steering committee" means the statewide emergency	153
services internet protocol network steering committee	154
established by division (A) (1) of section 128.02 of the Revised	155
Code.	156
<b>Sec. 128.32.</b> (A) (1) The state, the state highway patrol, a	157
subdivision, or a regional council of governments participating	158
in a 9-1-1 system established under this chapter and any	159
officer, agent, employee, or independent contractor of the	160

state, the state highway patrol, or such a participating 161  
subdivision or regional council of governments is not liable in 162  
damages in a civil action for injuries, death, or loss to 163  
persons or property arising from any act or omission, except 164  
willful or wanton misconduct, in connection with developing, 165  
adopting, or approving any final plan or any agreement made 166  
under section 128.09 of the Revised Code or otherwise bringing 167  
into operation the 9-1-1 system pursuant to this chapter. 168

(2) The steering committee and any member of the steering 169  
committee are not liable in damages in a civil action for 170  
injuries, death, or loss to persons or property arising from any 171  
act or omission, except willful or wanton misconduct, in 172  
connection with the development or operation of a 9-1-1 system 173  
established under this chapter. 174

(B) Except as otherwise provided in this section, an 175  
individual who gives emergency instructions through a 9-1-1 176  
system established under this chapter, and the principals for 177  
whom the person acts, including both employers and independent 178  
contractors, public and private, and an individual who follows 179  
emergency instructions and the principals for whom that person 180  
acts, including both employers and independent contractors, 181  
public and private, are not liable in damages in a civil action 182  
for injuries, death, or loss to persons or property arising from 183  
the issuance or following of emergency instructions, except 184  
where the issuance or following of the instructions constitutes 185  
willful or wanton misconduct. 186

(C) Except for willful or wanton misconduct, a telephone 187  
company, and any other installer, maintainer, or provider, 188  
through the sale or otherwise, of customer premises equipment, 189  
or service used for or with a 9-1-1 system, and their respective 190

officers, directors, employees, agents, ~~and suppliers~~, corporate 191  
parents, and affiliates are not liable in damages in a civil 192  
action for injuries, death, or loss to persons or property 193  
incurred by any person resulting from any of the following: 194

(1) Such an entity's or its officers', directors', 195  
employees', agents', or suppliers' participation in or acts or 196  
omissions in connection with participating in or developing, 197  
maintaining, or operating a 9-1-1 system; 198

(2) Such an entity's or its officers', directors', 199  
employees', agents', or suppliers' provision of assistance to a 200  
public utility, municipal utility, or state or local government 201  
as authorized by divisions (G) (4) and (5) of this section. 202

(D) Except for willful or wanton misconduct, a provider of 203  
and a seller of a prepaid wireless calling service and their 204  
respective officers, directors, employees, agents, and suppliers 205  
are not liable in damages in a civil action for injuries, death, 206  
or loss to persons or property incurred by any person resulting 207  
from anything described in division (C) of this section. 208

(E) No person shall knowingly use the telephone number of 209  
a 9-1-1 system established under this chapter to report an 210  
emergency if the person knows that no emergency exists. 211

(F) No person shall knowingly use a 9-1-1 system for a 212  
purpose other than obtaining emergency service. 213

(G) No person shall disclose or use any information 214  
concerning telephone numbers, addresses, or names obtained from 215  
the data base that serves the public safety answering point of a 216  
9-1-1 system established under this chapter, except for any of 217  
the following purposes or under any of the following 218  
circumstances: 219



(1) For the purpose of the 9-1-1 system;	220
(2) For the purpose of responding to an emergency call to an emergency service provider;	221 222
(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;	223 224 225 226 227
(4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.	228 229 230 231 232 233 234
(5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.	235 236 237 238 239 240 241
<b>Sec. 4905.402.</b> (A) As used in this section:	242
(1) "Control" means the possession of the power to direct <del>the management and policies of a domestic telephone company or a</del> <del>holding company of a domestic telephone company, or the</del> management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but	243 244 245 246 247 248

does not include the power that results from holding an official position or the possession of corporate office with the domestic company or utility or the holding company. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds with the power to vote proxies that constitute, twenty per cent or more of the total voting power of the domestic company or utility or the holding company.

(2) "Electric utility" has the same meaning as in section 4928.07 of the Revised Code.

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function.

(4) "Telephone company" means any company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code and provides basic local exchange service, as defined in section 4927.01 of the Revised Code.

(B) ~~No~~ Except as provided in division (H) (1) of this section:

(1) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility unless that person obtains the prior approval of the public utilities commission under this section. ~~To~~

(2) To obtain approval required under division (B) (1) of this section, the person seeking the approval shall file an application with the public utilities commission demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate,

rental, toll, or charge. The application shall contain such 278  
information as the public utilities commission may require. If 279  
the public utilities commission considers a hearing necessary, 280  
it may fix a time and place for hearing. If, after review of the 281  
application and after any necessary hearing, the public 282  
utilities commission is satisfied that approval of the 283  
application will promote public convenience and result in the 284  
provision of adequate service for a reasonable rate, rental, 285  
toll, or charge, the public utilities commission shall approve 286  
the application and make such order as it considers proper. If 287  
the public utilities commission fails to issue an order within 288  
thirty days of the filing of the application under this 289  
division, or within twenty days of the conclusion of a hearing, 290  
if one is held, the application shall be deemed approved by 291  
operation of law. 292

(C) ~~No~~ Except as provided in division (H) (2) of this 293  
section: 294

(1) No domestic telephone company shall merge with another 295  
domestic telephone company unless the merging companies obtain 296  
the prior approval of the public utilities commission. ~~An~~ 297

(2) An application seeking ~~such~~ approval required under 298  
division (C) (1) of this section shall be filed, processed, and 299  
decided in the manner provided for an application under division 300  
(B) (2) of this section. 301

(D) The public utilities commission shall adopt such rules 302  
as it finds necessary to carry out the provisions of this 303  
section. The rules shall specify the time and manner in which a 304  
company must file the notice required under division (G) of this 305  
section. 306

(E) If it appears to the public utilities commission or to 307  
any person that may be adversely affected that any person is 308  
engaged in or about to engage in any acts or practices that 309  
would violate division (B) or (C) of this section or any 310  
provision of a rule adopted under this section, the attorney 311  
general, when directed to do so by the public utilities 312  
commission, or the person claiming to be adversely affected may 313  
bring an action in any court of common pleas that has 314  
jurisdiction and venue to enjoin such acts or practices and 315  
enforce compliance. Upon a proper showing, the court shall 316  
grant, without bond, a restraining order or temporary or 317  
permanent injunction. 318

(F) The courts of this state have jurisdiction over every 319  
person not a resident of or domiciled or authorized to do 320  
business in this state that files, or is prohibited from acting 321  
without first filing, an application under division (B) or (C) 322  
of this section, and over all actions involving such person 323  
arising out of violations of any provision of this section or of 324  
a rule adopted under this section. The secretary of state shall 325  
be the agent for service of process for any such person in any 326  
action, suit, or proceeding arising out of such violations. 327  
Copies of all such lawful process shall be served upon the 328  
secretary of state and transmitted by certified mail, with 329  
return receipt requested, by the secretary of state to such 330  
person at the person's last known address. 331

(G) A domestic telephone company or a holding company 332  
controlling a domestic telephone company that files an 333  
application with the federal communications commission seeking 334  
authority for a merger or transfer of control shall file notice 335  
of the application with the public utilities commission. The 336  
notice shall include an internet link to the application. 337

(H) (1) Divisions (B) (1) and (2) of this section do not 338  
apply to the acquisition of control of a domestic telephone 339  
company or a holding company controlling a domestic telephone 340  
company if there is a pending application with the federal 341  
communications commission regarding the acquisition. If the 342  
federal communications commission waives the exercise of its 343  
authority regarding the acquisition or otherwise chooses not to 344  
exercise its authority regarding the acquisition, then divisions 345  
(B) (1) and (2) of this section apply. 346

(2) Divisions (C) (1) and (2) of this section do not apply 347  
if there is a pending application with the federal 348  
communications commission regarding a merger of domestic 349  
telephone companies. If the federal communications commission 350  
waives the exercise of its authority regarding the merger or 351  
otherwise chooses not to exercise its authority regarding the 352  
merger, then divisions (C) (1) and (2) of this section apply. 353

(I) Nothing in division (G) or (H) of this section shall 354  
affect the obligations and rights described in division (A) of 355  
section 4927.101 of the Revised Code. 356

**Sec. 4905.61.** If any public utility or railroad does, or 357  
causes to be done, any act or thing prohibited by Chapters 358  
4901., 4903., 4905., 4907., 4909., 4921., 4923., and 4927. of 359  
the Revised Code, or declared to be unlawful, or omits to do any 360  
act or thing required by the provisions of those chapters, or by 361  
order of the public utilities commission, the public utility or 362  
railroad is liable to the person, firm, or corporation injured 363  
thereby in treble the amount of damages sustained in consequence 364  
of the violation, failure, or omission. Any recovery under this 365  
section does not affect a recovery by the state for any penalty 366  
provided for in the chapters. This section does not apply to a 367

telephone company. 368

**Sec. 4927.02.** (A) It is the policy of this state to: 369

(1) Ensure the ~~availability~~ adequacy and reliability of 370  
~~adequate~~ basic local exchange service ~~or~~, where available to 371  
citizens in the state, and the adequacy and reliability of voice 372  
service ~~to citizens~~ throughout the state; 373

(2) Provide incentives for competing providers of 374  
telecommunications service to provide advanced, high-quality 375  
telecommunications service to citizens throughout the state; 376

(3) Rely primarily on market forces, where they exist, to 377  
maintain reasonable service levels for telecommunications 378  
services at reasonable rates; 379

(4) Encourage innovation in the telecommunications 380  
industry and the deployment of advanced telecommunications 381  
services; 382

(5) Create a regulatory climate that provides incentives 383  
to create and maintain high technology jobs for Ohioans; 384

(6) Promote diversity and options in the supply of 385  
telecommunications services and equipment throughout the state; 386

(7) Recognize the continuing emergence of a competitive 387  
telecommunications environment through flexible regulatory 388  
treatment of telecommunications services where appropriate; 389

(8) Consider the regulatory treatment of competing and 390  
functionally equivalent services and, to the extent practicable, 391  
provide for equivalent regulation of all telephone companies and 392  
services; 393

(9) Not unduly favor or advantage any provider and not 394

unduly disadvantage providers of competing and functionally equivalent services; <del>and</del>	395 396
(10) Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs; <u>and</u>	397 398 399
<u>(11) Allow and encourage competition and market forces to determine the availability, prices, terms, and other conditions of providing telecommunications services.</u>	400 401 402
(B) The public utilities commission shall consider the policy set forth in this section in carrying out this chapter.	403 404
<b>Sec. 4927.101.</b> (A) Section 4927.10 of the Revised Code and the amendments to sections 4927.01, 4927.02, 4927.07, and 4927.11 of the Revised Code made by H.B. 64 of the 131st general assembly shall not affect any of the following:	405 406 407 408
(1) Any contractual obligation, including agreements under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 251 and 252, as amended;	409 410 411
(2) Any right or obligation under federal law or rules;	412
(3) The carrier-access requirements under section 4927.15 of the Revised Code;	413 414
(4) Any right or obligation under section 4905.71 of the Revised Code;	415 416
(5) Any state law or rule adopted under this title related to wholesale rights or obligations.	417 418
(B) The amendments to section 4927.15 of the Revised Code made by H.B. 64 of the 131st general assembly shall not affect the obligations and rights described in divisions (A) (1), (2),	419 420 421

(4), and (5) of this section. 422

(C) The amendments to sections 128.01, 128.32, 4905.402, 4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 4927.19 of the Revised Code and the enactment of sections 4927.121, 4927.122, 4927.123, 4927.124, and 4927.125 of the Revised Code made by H.B. 402 of the 132nd general assembly shall not affect the obligations and rights described in division (A) of this section. 423  
424  
425  
426  
427  
428  
429

**Sec. 4927.12.** (A) As used in this section, ~~"exchange~~ : 430

"Exchange area" means a geographical service area 431  
established by an incumbent local exchange carrier and approved 432  
by the public utilities commission. 433

"Incremental cost" has the meaning as defined by the 434  
commission. 435

(B) Subject to ~~divisions~~ division (C), ~~(D), and (E)~~ of 436  
this section, ~~and upon not less than thirty days' notice to the~~ 437  
~~public utilities commission and to affected customers, an~~ 438  
~~incumbent local exchange carrier may alter its rates for basic~~ 439  
~~local exchange service.~~ 440

~~(C) In addition to the requirements of division (B) of~~ 441  
~~this section, all of the following apply to any upward~~ 442  
~~alteration of rates for basic local exchange service made under~~ 443  
~~that division~~ section 4927.124 of the Revised Code, and except 444  
as provided in sections 4927.121, 4927.122, and 4927.123 of the 445  
Revised Code: 446

(1) If ~~the~~ an incumbent local exchange carrier, within the 447  
twelve months prior to ~~the effective date of this section~~ 448  
September 13, 2010, increased the carrier's rates for basic 449  
local exchange service for an exchange area, ~~both of the~~ 450



~~following apply:~~ 451

~~(a) The incumbent local exchange carrier may not alter the carrier's rates for basic local exchange service for the exchange area upward by any amount during the period that ends twelve months after the date of the last increase of the rates for basic local exchange service.~~ 452  
453  
454  
455  
456

~~(b) In no event may the incumbent local exchange carrier, during the twelve month period that begins immediately after the end date of the period described in division (C) (1) (a) of this section, and during any subsequent twelve-month period, may alter the carrier's rates for basic local exchange service upward for the exchange area downward by any amount, but not below the carrier's incremental cost, or upward by not more than the amount authorized for an annual increase in the rate for basic local exchange service by division (A) of rule 4901:1-4-11 of the Ohio Administrative Code as that rule existed on the effective date of this section two dollars.~~ 457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467

~~(2) If the an incumbent local exchange carrier did not, within the twelve months prior to the effective date of this section September 13, 2010, increase the carrier's rates for basic local exchange service for an exchange area, and if the commission has made a prior determination that the exchange area qualified for alternative regulation of basic local exchange service under Chapter 4901:1-4 of the Ohio Administrative Code as that chapter existed on the effective date of this section September 13, 2010, ~~in no event may the incumbent local exchange carrier, during the twelve-month period that begins on the effective date of this section, and during any subsequent twelve-month period, may alter the carrier's rates for basic local exchange service upward for the exchange area downward by~~ 468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480~~

any amount, but not below the carrier's incremental cost, or 481  
upward by not more than the amount described in division (C)(1) 482  
(b) of this section, two dollars. 483

(3) (a) If the commission has not made a prior 484  
determination that ~~the~~ an exchange area qualified for 485  
alternative regulation of basic local exchange service under 486  
Chapter 4901:1-4 of the Ohio Administrative Code as that chapter 487  
existed on ~~the effective date of this section~~ September 13, 488  
2010, an incumbent local exchange carrier may, at any time, 489  
alter the carrier's rates for basic local exchange service for 490  
that exchange area downward by any amount, but not below the 491  
carrier's incremental cost. But the carrier may not alter its 492  
rates for basic local exchange service upward for that exchange 493  
area unless the carrier first applies to the commission and the 494  
commission determines that the application demonstrates that two 495  
or more alternative providers offer, in the exchange area, 496  
competing service to the basic local exchange service offered by 497  
an incumbent local exchange carrier in the exchange area, 498  
regardless of the technology and facilities used by the 499  
alternative provider, the alternative provider's location, and 500  
the extent of the alternative provider's service area within the 501  
exchange area. An alternative provider includes a telephone 502  
company, including a wireless service provider, a 503  
telecommunications carrier, and a provider of internet protocol- 504  
enabled services, including voice over internet protocol. 505

(b) ~~Upon~~ On the thirty-first day after the filing of an 506  
application under division ~~(C)~~ (B) (3) (a) of this section, the 507  
commission shall be deemed to have found that the application 508  
meets the requirements of that division unless the commission, 509  
within thirty days after the filing of the application, ~~issues~~ 510  
does either of the following: 511

(i) Issues an order finding that the requirements of 512  
division (B) (3) (a) of this section have not been met; 513

(ii) Suspends the automatic approval for good cause shown. 514  
The commission shall then act to approve or deny the application 515  
not later than ninety days after the date of the suspension. 516

~~(c) In no event may~~ If an incumbent local exchange carrier 517  
~~that applies to the commission under division (C) (B) (3) (a) of~~ 518  
~~this section and the application is approved or deemed approved~~ 519  
under division (B) (3) (b) of this section, the incumbent local 520  
exchange carrier, (i) during the twelve-month period that (I) 521  
begins on the thirty-first day after the company files the 522  
application, if the application is deemed approved, or (II) 523  
begins on the date that the application is approved, and (ii) 524  
during any subsequent twelve-month period, may alter the 525  
carrier's rates for basic local exchange service upward for the 526  
exchange area to which the application applies upward by not 527  
~~more than the amount described in division (C) (1) (b) of this~~ 528  
~~section two dollars.~~ 529

~~(4) In no event may an incumbent local exchange carrier,~~ 530  
~~before January 1, 2012, alter the carrier's rates for basic~~ 531  
~~local exchange service upward for a customer receiving lifeline~~ 532  
~~service under section 4927.13 of the Revised Code.~~ 533

~~(D) Except as provided in division (E) of this section, no~~ 534  
(C) No banking of upward rate alterations made under division 535  
(B) of this section is permitted. 536

~~(E) At any time and upon not less than thirty days' notice~~ 537  
~~to the commission and to affected customers, an incumbent local~~ 538  
~~exchange carrier owned and operated exclusively by and solely~~ 539  
~~for its customers may alter its rates for basic local exchange~~ 540

~~service by any amount.~~ 541

~~(F) The rates, terms, and conditions for basic local  
exchange service and for installation and reconnection fees for  
basic local exchange service shall be tariffed in the manner  
prescribed by rule adopted by the commission.~~ 542  
543  
544  
545

Sec. 4927.121. Subject to section 4927.124 of the Revised 546  
Code, an incumbent local exchange carrier owned and operated 547  
exclusively by and solely for its customers may alter its rates 548  
for basic local exchange service upward by any amount and at any 549  
time. 550

Sec. 4927.122. Subject to section 4927.124 of the Revised 551  
Code, the public utilities commission shall allow upward 552  
alterations to the rate for basic local exchange service by an 553  
incumbent local exchange carrier by any amount necessary in 554  
order to comply with the eligibility requirements prescribed by 555  
the federal communications commission for the federal universal 556  
service high-cost program. Upward alterations may be ordered to 557  
be phased in over a period not to exceed three years if the 558  
commission determines that a phase-in is necessary to protect 559  
the public interest. 560

Sec. 4927.123. (A) As used in this section: 561

"Exchange area" has the same meaning as in section 4927.12 562  
of the Revised Code. 563

"Line loss" refers to the number of accounts, whether 564  
residential or commercial, for which a customer of an incumbent 565  
local exchange carrier has terminated basic local exchange 566  
service. 567

(B) Not earlier than the date that is exactly four years 568  
after the effective date of this section, if the general 569

assembly fails to act upon the report received under Section 4 570  
of H.B. 402 of the 132nd general assembly, an incumbent local 571  
exchange carrier may apply to the public utilities commission 572  
for full pricing flexibility for basic local exchange service 573  
for an exchange area, subject to the requirements regarding 574  
incremental cost under division (B) of section 4927.12 of the 575  
Revised Code. 576

(C) The commission shall approve an application under 577  
division (B) of this section if the carrier demonstrates that 578  
both of the following apply: 579

(1) The carrier has experienced at least fifty per cent 580  
line loss in the exchange area since January 1, 2002. 581

(2) One of the following applies: 582

(a) The carrier increased the carrier's rates for basic 583  
local exchange service for the exchange area within the twelve 584  
months prior to September 13, 2010. 585

(b) The commission made a determination that the exchange 586  
area qualified for alternative regulation of basic local 587  
exchange service under Chapter 4901:1-4 of the Ohio 588  
Administrative Code as that chapter existed on September 13, 589  
2010. 590

(c) The carrier filed an application for the exchange area 591  
that was approved or deemed approved under division (B) (3) (b) of 592  
section 4927.12 of the Revised Code. 593

(D) On the thirty-first day after the filing of an 594  
application under division (B) of this section, the commission 595  
shall be deemed to have found that the application meets the 596  
requirements of division (C) of this section unless the 597  
commission, within thirty days after the filing of the 598

application, issues an order finding that the requirements have 599  
not been met. 600

(E) If an application for an exchange area is approved or 601  
deemed approved under this section, the incumbent local exchange 602  
carrier that filed the application may alter its rates for basic 603  
local exchange service for the exchange area to which the 604  
application applies upward by any amount and at any time, 605  
subject to section 4927.124 of the Revised Code. 606

Sec. 4927.124. An incumbent local exchange carrier 607  
altering its rates for basic local exchange service under 608  
section 4927.12, 4927.121, 4927.122, or 4927.123 of the Revised 609  
Code shall provide not less than thirty days' notice to the 610  
public utilities commission and to affected customers. 611

Sec. 4927.125. The rates, terms, and conditions for basic 612  
local exchange service and for installation and reconnection 613  
fees for basic local exchange service shall be tariffed in the 614  
manner prescribed by rule adopted by the public utilities 615  
commission. 616

Sec. 4927.17. (A) Except as provided in sections 4927.07 617  
and ~~4927.12~~ 4927.124 of the Revised Code, a telephone company 618  
shall provide at least fifteen days' advance notice to its 619  
affected customers of any material change in the rates, terms, 620  
and conditions of ~~a~~ any retail service required to be tariffed 621  
by the public utilities commission or the federal communications 622  
commission, any wholesale service as to which there is no other 623  
applicable notice requirement, and any change in the company's 624  
operations that are not transparent to customers and may impact 625  
service. 626

(B) A telephone company shall inform its customers of the 627

commission's toll-free number and e-mail address on all bills 628  
and disconnection notices and any residential customers of the 629  
office of the consumers' counsel's toll-free number and e-mail 630  
address on all residential bills and disconnection notices. 631

**Sec. 4927.19.** (A) The public utilities commission may 632  
investigate or examine the books, records, or practices of any 633  
telephone company, but only to the extent of the commission's 634  
jurisdiction over the company under sections 4927.01 to 4927.21 635  
of the Revised Code. Subject to that limitation, the commission 636  
may do any of the following: 637

~~(A)~~ (1) Through its commissioners or by inspectors or 638  
employees authorized by it, examine the books, records, 639  
contracts, documents, and papers of any such company for any 640  
purpose incidental to the commission's authority under those 641  
sections; 642

~~(B)~~ (2) By subpoena duces tecum, compel the production of 643  
such books, records, contracts, documents, and papers; 644

~~(C)~~ (3) Compel the attendance of such witnesses as it 645  
requires to give evidence in connection with such an 646  
investigation. 647

(B) The commission may investigate or inspect the plant 648  
and facility of any telephone company, subject to the following 649  
limitations: 650

(1) To the extent of the commission's jurisdiction over 651  
the company under sections 4927.01 to 4927.21 of the Revised 652  
Code; 653

(2) Only in response to a complaint that implicates the 654  
plant or facility to be inspected and that is made by a consumer 655  
concerning basic local exchange service or another entity 656

concerning wholesale service. 657

**Section 2.** That existing sections 128.01, 128.32, 658  
4905.402, 4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 659  
4927.19 of the Revised Code are hereby repealed. 660

**Section 3.** Not later than one hundred twenty days 661  
following the effective date of H.B. 402 of the 132nd General 662  
Assembly, the Public Utilities Commission shall amend its rules 663  
to the extent necessary to bring them into conformity with this 664  
act and shall amend its rule implementing section 4927.13 of the 665  
Revised Code to ensure consistency with the federal Lifeline 666  
program. 667

**Section 4.** (A) As used in this section: 668

"Basic local exchange service" and "incumbent local 669  
exchange carrier" have the same meanings as in section 4927.01 670  
of the Revised Code. 671

"Exchange area" has the same meaning as in section 4927.12 672  
of the Revised Code. 673

"Line loss" has the same meaning as in section 4927.123 of 674  
the Revised Code. 675

(B) Not later than the date that is exactly three years 676  
after the effective date of this section, the staff of the 677  
Public Utilities Commission shall produce and docket at the 678  
Commission a report that includes all of the following: 679

(1) The number of customers using basic local exchange 680  
service in this state at the time of the report; 681

(2) The aggregate amount of line loss in this state since 682  
the effective date of this section; 683



(3) The change in the price of basic local exchange 684  
service in each exchange area in this state over the three years 685  
since the effective date of this section. 686

(C) The Commission shall allow three months for public 687  
comment on the report. 688

(D) Not later than a date that is exactly three months 689  
after the report is docketed under division (B) of this section, 690  
the Commission shall submit a report to the standing committees 691  
in the House of Representatives and the Senate primarily dealing 692  
with telecommunications issues, the President of the Senate, and 693  
the Speaker of the House of Representatives. The report shall 694  
include the Commission's assessment of the information described 695  
in divisions (B)(1) to (3) of this section. 696

(E) Nothing in this section prevents a party from arguing 697  
that information subject to being reported under this section is 698  
a trade secret and should be kept confidential. 699