

1 HB89
2 137264-3
3 By Representative Millican
4 RFD: Boards, Agencies and Commissions
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to E-911 services, to amend Sections 11-98-1, 11-98-2, 11-98-4, 11-98-5, 11-98-6, 11-98-7, and 11-98-9, Code of Alabama 1975; to add Sections 11-98-4.1, 11-98-5.2, 11-98-5.3, 11-98-13, 11-98-13.1, 11-98-14, and 11-98-15 to the Code of Alabama 1975, to create a single, statewide emergency service charge applicable to all voice services provided within the state; to create a statewide 911 Board, which shall replace and supersede the existing Commercial Mobile Radio Service (CMRS) Board and which would be responsible for establishing and collecting an emergency telephone service charge; to distribute the funds collected from the service charge to communications districts and CMRS providers; to establish a Permanent Oversight Commission and to provide for the membership and duties of the commission; to provide for the Department of Examiners of Public Accounts to provide audit and other services and be reimbursed therefor; and to repeal Sections 11-98-5.1, 11-98-7.1, and 11-98-8, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 11-98-1, 11-98-2, 11-98-4,
2 11-98-5, 11-98-6, 11-98-7, and 11-98-9, Code of Alabama 1975,
3 are amended to read as follows:

4 "§11-98-1.

5 "(a) As used in this chapter, the following words
6 and terms have the following meanings, unless the context
7 clearly indicates otherwise:

8 "(1) AUTOMATIC NUMBER IDENTIFICATION. An enhanced
9 911 service capability that enables the automatic display of
10 the 10-digit telephone number used to place a 911 call. The
11 term includes pseudo-automatic number identification, which
12 means an enhanced 911 service capability that enables
13 identification of the subscriber.

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

1 a wireless roaming service or other non-local radio access
2 line service, or to a private telecommunications system.

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

6 "(4) CMRS PROVIDER. A person or entity that provides
7 CMRS.

8 ~~"(1)"~~ (5) CREATING AUTHORITY. The municipal governing
9 body of any municipality or the governing body of any county
10 that, by passage of a resolution or ordinance, creates a
11 ~~communication~~ district within its respective jurisdiction in
12 accordance with this chapter.

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

18 ~~"(2)"~~ (7) DISTRICT. ~~The~~ A communication district
19 created pursuant to this chapter.

20 ~~"(3) E911. Enhanced universal emergency number~~
21 ~~service or enhanced 911 service which is a telephone exchange~~
22 ~~communications service whereby a public safety answering point~~
23 ~~(PSAP) designated by the customer may receive telephone calls~~
24 ~~dialed to the telephone number 911. E911 service includes~~
25 ~~lines, facilities, and equipment necessary for answering,~~
26 ~~transferring, and dispatching public emergency telephone calls~~
27 ~~originated by persons within the serving area who dial 911 but~~

1 ~~E911 service does not include dial tone first which may be~~
2 ~~made available by the service provider based on the ability to~~
3 ~~recover the costs associated with its implementation and~~
4 ~~consistent with tariffs filed with and approved by the Alabama~~
5 ~~Public Service Commission.~~

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

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

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

1 "(9) 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 "(10) OTHER ORIGINATING SERVICE PROVIDER. An entity
5 other than a voice communication service provider that
6 delivers real-time communication between a person needing
7 assistance and an E-911 system.

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

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

15 "a. The residential street address or the primary
16 business street address of the customer.

17 "b. Within the licensed service areas of the CMRS
18 provider.

19 ~~"(6)~~ (13) PUBLIC SAFETY AGENCY. An agency of the
20 State of Alabama, or a functional division of a political
21 subdivision, that provides fire fighting, rescue, natural or
22 man-caused disaster, or major emergency response, law
23 enforcement, ambulance, or emergency medical services.

24 ~~"(7) SERVICE SUPPLIER. Any person providing exchange~~
25 ~~telephone service to any service user throughout the county or~~
26 ~~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 "(14) STATEWIDE 911 BOARD or 911 BOARD. The
14 statewide 911 Board established pursuant to Section 11-98-4.1.

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

17 "(16) SUBSCRIBER. A person who purchases a voice
18 communications service and is able to receive it or use it
19 periodically over time; provided, however, that for purposes
20 of the imposition and collection of the statewide 911 charge
21 the term subscriber shall not include the State of Alabama,
22 the counties within the state, incorporated municipalities of
23 the State of Alabama, county and city school boards,
24 independent school boards, and all educational institutions
25 and agencies of the State of Alabama, the counties within the
26 state, or any incorporated municipalities of the State of
27 Alabama.

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

9 "(18) VOICE COMMUNICATIONS SERVICE. Any of the
10 following:

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

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

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

20 "d. Such other services to which the statewide 911
21 charge is applied pursuant to Section 11-98-4.1(e) (8).

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

25 "(b) The terms department, prepaid retail,
26 transaction, prepaid wireless telephone service, and prepaid

1 wireless consumer shall have those meanings ascribed to them
2 in Section 11-98-5.3.

3 "§11-98-2.

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

1 "All bonds shall contain a recital that they are
2 issued pursuant to this chapter, which recitals shall be
3 conclusive that they have been duly authorized pursuant to
4 this chapter.

5 "§11-98-4.

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

26 "(b) The board of commissioners shall have complete
27 and sole authority to appoint a chairman and any other

1 officers it may deem necessary from among the membership of
2 the board of commissioners.

3 "(c) A majority of the board of commissioners
4 membership shall constitute a quorum and all official action
5 of the board of commissioners shall require a quorum.

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

10 "(e) In lieu of appointing a board of commissioners,
11 the governing body of the creating authority may serve as the
12 board of commissioners of the district, in which case it shall
13 assume all the powers and duties of the board of commissioners
14 as provided in this chapter.

15 "(f) In addition to other authority and powers
16 necessary to establish, operate, maintain, and replace an
17 emergency communication system, the board of commissioners
18 shall have the following authority:

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

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

26 "(3) To construct, enlarge, equip, improve,
27 maintain, and operate all aspects of an emergency

1 communication system consistent with subsection ~~(i)~~ (a) of
2 Section ~~11-98-5~~ 11-98-6.

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

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

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

13 "(7) To make grants to ~~smaller~~ municipalities for
14 dispatching equipment and services.

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

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

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

23 "(3) The name of the corporation.

24 "(4) That the governing body is the board of
25 commissioners.

26 "(h) Any other provisions of this chapter
27 notwithstanding, the board of commissioners shall present to

1 the creating authority for approval the acquisition,
2 disposition, or improvements to real property.

3 "(i) In addition to the provisions of subdivision
4 (5) of subsection (f), each employee or official of the
5 district who receives funds or is involved in the disbursement
6 of funds in any manner shall be bonded in an amount not less
7 than the amount of total funds received by the district in the
8 prior fiscal year. The bonds shall be paid for by the
9 district, and a copy shall be on file at the offices of the
10 district and at the office of the judge of probate of the
11 county in which the district is incorporated.

12 "§11-98-5.

13 ~~"(a) (1) The board of commissioners of the district~~
14 ~~may, when so authorized by a vote of a majority of the persons~~
15 ~~voting within the district, in accordance with law, levy an~~
16 ~~emergency telephone service charge in an amount not to exceed~~
17 ~~five percent of the maximum tariff rate charged by any service~~
18 ~~supplier in the district, except that in counties with~~
19 ~~populations of less than 25,000 as determined by the most~~
20 ~~recent population census, the board of commissioners may, when~~
21 ~~so authorized by a vote of a majority of the persons voting~~
22 ~~within the district, in accordance with law, levy an emergency~~
23 ~~telephone service charge in an amount not to exceed two~~
24 ~~dollars (\$2). The governing body of the municipality or county~~
25 ~~may, upon its own initiative, call the special election. Any~~
26 ~~service charge shall have uniform application and shall be~~
27 ~~imposed throughout the entire district, to the greatest extent~~

1 possible, in conformity with availability of such service in
2 any area of the district. The district shall have service on
3 line no later than 36 months from the start of collections or
4 suspend all collections until the district provides the
5 service and shall refund all collections made during this 36
6 month period of time.

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

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

26 ~~"(c) An emergency telephone service charge shall be~~
27 ~~imposed only upon the amount received from the tariff rate for~~

1 ~~exchange access lines. If there is no separate exchange access~~
2 ~~charge stated in the service supplier's tariffs, the board of~~
3 ~~commissioners shall determine a uniform percentage not in~~
4 ~~excess of 85 percent of the tariff rate for basic exchange~~
5 ~~telephone service that shall be deemed to be the equivalent of~~
6 ~~tariff rate exchange access lines, until the service supplier~~
7 ~~establishes the tariff rate. No service charge shall be~~
8 ~~imposed upon more than 100 exchange access facilities per~~
9 ~~person, per location. Every billed service user shall be~~
10 ~~liable for any service charge imposed under this subsection~~
11 ~~until it has been paid to the service supplier. The duty of~~
12 ~~the service supplier to collect the service charge shall~~
13 ~~commence upon the date of its implementation, which shall be~~
14 ~~specified in the resolution calling the election. That~~
15 ~~emergency telephone service charge shall be added to and may~~
16 ~~be stated separately in the billing by the service supplier to~~
17 ~~the service user.~~

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

1 ~~service supplier shall constitute a complete defense to any~~
2 ~~legal action or claim that may result from the service~~
3 ~~supplier's determination of nonpayment or the identification~~
4 ~~of service users, or both.~~

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

24 ~~"(f) In order to provide additional funding or~~
25 ~~additional real or personal property for the district, the~~
26 ~~district or county or municipal governing body may receive~~
27 ~~federal, state, county, or municipal real or personal property~~

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

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

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

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

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

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

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

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

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

1 communications service. The 911 Board shall collect from each
2 voice communications service provider the monthly statewide
3 911 charges prescribed herein. The initial statewide 911
4 charge shall be developed by the 911 Board at an amount
5 calculated to produce, after deduction of administrative fees
6 specified in this chapter, annual total revenues equal to the
7 annual 911 fees collected by or on behalf of, or owed to,
8 districts and governmental bodies, as calculated for purposes
9 of the base distribution amount under subdivision (3) of
10 subsection (b) of Section 11-98-5.2, plus, without
11 duplication, (1) the amount of CMRS service charges collected
12 by the CMRS Board for the 12 months ending September 30, 2011,
13 and (2) an amount equal to any other taxpayer funding of E-911
14 systems by counties or municipalities in areas where no
15 separate 911 fee is imposed. The revenues and other funds used
16 to determine the initial statewide 911 charge shall be
17 hereafter referred to as the baseline 911 revenues. The
18 statewide 911 charge shall be uniformly applied and shall be
19 imposed throughout the state, and shall replace all other 911
20 fees or 911 taxes. The 911 Board shall certify that the
21 initial statewide 911 charge adopted herein is reasonably
22 calculated so as not to exceed the funding requirements of
23 this act. The board shall submit the recommended statewide 911
24 charge to the Permanent Oversight Commission for review and
25 approval no later than March 1, 2013. The Permanent Oversight
26 Commission may reject the recommended statewide 911 charge and
27 specify an alternative charge, calculated in accordance with

1 this chapter, by an affirmative vote of six of its members;
2 provided, however, in no case may the Permanent Oversight
3 Commission establish a rate which reduces funding below that
4 necessary to produce the baseline 911 revenues as established
5 under this act. Failure of the Permanent Oversight Commission
6 to reject the recommended statewide charge and specify an
7 alternative charge within 30 days of submission shall result
8 in the charge being deemed approved for implementation on
9 October 1, 2013, without the need for further action. Should
10 the Permanent Oversight Commission reject the recommended
11 statewide 911 charge and specify an alternative rate, it shall
12 specify the basis for its action to the board, which may, by a
13 supermajority of 60 percent of a quorum of its members, reject
14 the alternative charge in favor of its original recommended
15 charge or a lower charge. The statewide 911 charge established
16 by the 911 Board following such second review shall not be
17 subject to further review by the Permanent Oversight
18 Commission and shall take effect automatically on October 1,
19 2013. Failure of the 911 Board to reject or modify the
20 alternative charge submitted by the Permanent Oversight
21 Commission within 30 days of submission shall result in the
22 alternative charge being deemed approved for implementation on
23 October 1, 2013, without the need for further action.

24 "(b) A voice communications service provider shall
25 remit the statewide 911 charge collected by it under this
26 section to the 911 Board, utilizing such electronic or paper
27 reporting forms that may be adopted by the 911 Board by rule.

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

15 "(c) Subject to succeeding provisions of this
16 subsection:

17 "(1) The 911 Board, from time to time but in no
18 event more than once every fiscal year, shall increase or
19 decrease the rate of the statewide 911 charge by an amount
20 reasonably calculated to produce the baseline 911 revenues,
21 plus any additional revenues necessary to meet the
22 requirements of subdivision (6) of subsection (b) of Section
23 11-98-5.2.

24 "(2) The 911 Board, not later than October 1 in the
25 year 2018 and each fifth year thereafter, shall adjust the 911
26 charge to produce an increase in the baseline 911 revenues
27 sufficient to increase the amount distributed to each district

1 under this chapter during the immediately preceding fiscal
2 year by an amount equal to the rate of growth, determined as a
3 percentage, in the Consumer Price Index for Urban Consumers
4 (CPI-U) for such five-year period. Once adjusted as provided
5 in this section, the resulting revenues shall become the
6 baseline 911 revenues until amended or adjusted under the
7 procedures established in this act.

8 "(3) Any adjustments to the statewide 911 charge
9 pursuant to this subsection shall follow the same procedures,
10 standards, and deadlines provided in subsection (a) for review
11 of the initial statewide 911 charge, with the exception that
12 the adjustment shall be effective at a date set by the board
13 at least 90 days after, as applicable, the expiration of the
14 time period for action by the Permanent Oversight Committee on
15 the adjustment or the 911 Board's action in adopting a final
16 adjustment following action by the Permanent Oversight
17 Committee. In addition, the 911 Board, not less than 90 days
18 prior to the effective date of any such increase or decrease
19 in the rate of the statewide 911 charge, shall notify each
20 voice communications service provider and CMRS provider of
21 such increase or decrease, as the case may be. Notwithstanding
22 any provision of this subsection to the contrary, in no event
23 shall the revenues produced by the statewide 911 charge exceed
24 the amounts deemed by the 911 Board to be necessary to satisfy
25 the requirements of this chapter.

26 "(d) A voice communications service provider has no
27 obligation to take any legal action to enforce the collection

1 of the statewide 911 charge billed to a subscriber. The 911
2 Board may initiate a collection action, and reasonable costs
3 and attorney's fees associated with that collection may be
4 assessed against the subscriber. A voice communications
5 service provider shall quarterly report to the 911 Board the
6 amount of the provider's uncollected service charges. The 911
7 Board may request, to the extent permitted by federal and
8 state privacy laws, the name, address, and telephone number of
9 a subscriber who refuses to pay the statewide 911 charge.

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

12 "(f) At any time after October 1, 2013, should the
13 911 Board determine that the revenues allocated to CMRS
14 providers under subdivision (7) of subsection (b) of Section
15 11-98-5.2 for reimbursement to CMRS providers exceed those
16 necessary to meet funding requirements, it may distribute any
17 excess revenues in accordance with subdivision (1) of
18 subsection (b) of Section 11-98-5.2.

19 "§11-98-6.

20 "As used in this section and Sections 11-98-7,
21 11-98-8, and 11-98-9, the following terms shall have the
22 following meanings:

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

1 ~~service capability that enables the automatic display of the~~
2 ~~number of the cell site and an identification of the CMRS~~
3 ~~provider.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 "(a) Funds received by a district pursuant to
7 Section 11-98-5.2 shall be used to establish, operate,
8 maintain, and replace an emergency communication system that,
9 without limitation, may consist of the following:

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

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

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

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

23 "(5) Administrative and other costs related to
24 subdivisions (1) to (4), inclusive.

25 "(b) A district or county or municipal governing
26 body may receive federal, state, county, or municipal real or
27 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. In the event that two or
11 more districts are consolidated for purposes of this chapter,
12 the base distribution amount as defined in Section 11-98-5.2
13 (b) (3) shall include the combined base distribution amounts
14 that would have been calculated for the individual districts.

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

23 "(e) Beginning with fiscal year 2013, the Department
24 of Examiners of Public Accounts shall audit each district on a
25 biennial basis to ensure compliance with the requirements of
26 this chapter regarding both revenues and expenditures.

27 "§11-98-7.

1 ~~"(a) There is created a Commercial Mobile Radio~~
2 ~~Service (CMRS) Board, consisting of seven members who shall be~~
3 ~~citizens of this state and shall reflect the racial, gender,~~
4 ~~geographic, urban and rural, and economic diversity of the~~
5 ~~state.~~

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

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

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

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

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

17 ~~"a. One member of the House of Representatives~~
18 ~~appointed by the Speaker of the House.~~

19 ~~"b. One member of the Senate appointed by the~~
20 ~~Lieutenant Governor.~~

21 ~~"(3) The term of each member shall be four years,~~
22 ~~except that of the members first appointed, one representing~~
23 ~~ECDs shall serve for three years and one representing CMRS~~
24 ~~providers shall serve for three years, one representing ECDs~~
25 ~~shall serve two years and one representing CMRS providers~~
26 ~~shall serve two years. The Governor shall designate the term~~
27 ~~which each of the members first appointed shall serve when he~~

1 ~~or she makes appointments. The two legislative members shall~~
2 ~~serve for the length of their elective service, but no more~~
3 ~~than four years.~~

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

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

26 ~~"(b) The board shall have the following powers and~~
27 ~~duties:~~

1 ~~"(1) To levy a CMRS emergency telephone service~~
2 ~~charge on each CMRS connection that has a place of primary use~~
3 ~~within the geographical boundaries of the State of Alabama.~~
4 ~~The rate of the CMRS service charge shall be seventy cents~~
5 ~~(\$.70) per month per CMRS customer on each CMRS connection~~
6 ~~beginning on May 1, 1998, which amount shall not be increased~~
7 ~~except by the Legislature. The CMRS service charge shall have~~
8 ~~uniform application and shall be imposed throughout the state.~~
9 ~~The board shall receive all revenues derived from the CMRS~~
10 ~~service charge levied in the state and collected pursuant to~~
11 ~~Section 11-98-8.~~

12 ~~"(2) To establish and maintain the CMRS Fund as an~~
13 ~~insured, interest-bearing account into which the board shall~~
14 ~~deposit all revenues derived from the CMRS service charge~~
15 ~~levied on CMRS connections and collected pursuant to Section~~
16 ~~11-98-8. The revenues deposited into the CMRS Fund shall not~~
17 ~~be moneys or property of the state and shall not be subject to~~
18 ~~appropriation by the Legislature.~~

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

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

1 related to the FCC Order and the handling of wireless
2 emergency calls.

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

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

25 "d. Beginning no later than October 1, 2007, and no
26 later than each October 1 thereafter, each CMRS provider
27 wishing to participate in the payments provided in paragraph

1 ~~c. for expenses related to the providing of Phase II Enhanced~~
2 ~~911 Service shall certify to the board that it does not then~~
3 ~~collect a cost-recovery or other similar separate charge from~~
4 ~~its customers. CMRS providers failing to provide such~~
5 ~~certification by October 1 shall be ineligible to receive such~~
6 ~~payments for any such Phase II expenses incurred until such~~
7 ~~certificate is provided to the board. Any CMRS provider~~
8 ~~electing to collect cost-recovery or other similar separate~~
9 ~~charges at any time following its October 1 certification~~
10 ~~shall immediately notify the board and shall be ineligible to~~
11 ~~participate in the payments established in this subsection~~
12 ~~until ceasing such collection from its customers and providing~~
13 ~~the notice required herein. This requirement shall only apply~~
14 ~~to payments for expenses related to the provision of Phase II~~
15 ~~Enhanced 911 Services.~~

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

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

1 charges deposited into the CMRS Fund during the preceding
2 fiscal year and all disbursements to ECDs during the preceding
3 fiscal year. The Department of Examiners of Public Accounts
4 shall conduct an annual audit of the expenditures of the board
5 from all CMRS service charges from the CMRS Fund.

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

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

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

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

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

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

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

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

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

26 ~~"(g) The board shall be subject to the Alabama~~
27 ~~Sunset Law under Chapter 20 of Title 41, shall be classified~~

1 ~~an enumerated agency under Section 41-20-3, and shall~~
2 ~~terminate on October 1, 2000, and every four years thereafter,~~
3 ~~unless continued as therein provided. If continued, the board~~
4 ~~shall be reviewed every four years thereafter and terminated~~
5 ~~unless continued into law.~~

6 "(a) CMRS providers are eligible for reimbursement
7 from the 911 Fund as set forth in subsections (b) and (c) of
8 Section 11-98-5.2. To obtain reimbursement, a CMRS provider
9 shall comply with all of the following:

10 "(1) Invoices shall be sworn.

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

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

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

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

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

1 payment is deferred to the following month. A deferred payment
2 accrues interest at a rate equal to the rate earned by the 911
3 Fund until it is paid.

4 "§11-98-9.

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

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

7 Section 2. Sections 11-98-4.1, 11-98-5.2, 11-98-5.3,
8 11-98-13, 11-98-13.1, and 11-98-14 are added to the Code of
9 Alabama 1975, to read as follows:

10 §11-98-4.1.

11 (a) There is created a statewide 911 Board comprised
12 of 13 members that shall reflect the racial, gender,
13 geographic, urban/rural, and economic diversity of the state.
14 The 911 Board shall be created effective July 1, 2012, and
15 until the effective date of the statewide 911 charge pursuant
16 to Section 11-98-5, with cooperation of the CMRS Board, shall
17 plan for the implementation of the statewide 911 charge and
18 the distribution of the revenues as provided herein. The
19 reasonable administrative expenses incurred by the 911 Board
20 prior to the implementation of the statewide 911 charge may be
21 deducted from the existing CMRS Fund. Upon the effective date
22 of the new statewide 911 charge, the 911 Board shall replace
23 and supersede the CMRS Board formerly created pursuant to this
24 chapter, and the CMRS Fund shall be incorporated into, and
25 considered part of, the 911 Fund.

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

4 (1) Seven members recommended by the Alabama
5 Association of 911 Districts, one from each of the seven
6 congressional districts, with each district representative
7 recommended selected by vote of the Alabama Association of 911
8 Districts members from that congressional district. The
9 initial appointments shall include the three district
10 representatives on the CMRS Board who shall serve through
11 March 31, 2014, and a member from the first, third, fifth, and
12 seventh congressional districts as provided herein. Following
13 the March 31, 2014, expiration of the terms of the district
14 representatives drawn from the CMRS Board, the Governor shall
15 appoint a member recommended by the Association of 911
16 Districts from each of the second, fourth, and sixth
17 congressional districts, it being the intent of this section
18 that each of the seven district representatives on the board
19 be from a different congressional district, as such districts
20 exist on the effective date of the act adding this section.

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

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

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

4 (c) For purposes of the initial board appointments,
5 (1) five members of the board shall be appointed for a
6 four-year term; (2) four members for a three-year term; (3)
7 the three members of the CMRS Board who are appointed pursuant
8 to subdivision (1) of subsection (b) of Section 11-98-4.1 to
9 terms ending on March 31, 2014; and (4) the remaining member
10 for a two-year term. Thereafter, board members shall serve
11 staggered terms of four years. In the event of vacancy, the
12 vacancy shall be filled for the balance of the unexpired term
13 in the same manner as the original appointment. Any vacancy
14 occurring on the 911 Board, whether for an expired or
15 unexpired term, shall be filled by appointment as soon as
16 practicable after the vacancy occurs, whether for an expired
17 or unexpired term.

18 (d) For all terms expiring after July 1, 2015,
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 while the Senate is not in session shall
25 be submitted to the Senate not later than the third
26 legislative day following the reconvening of the Legislature.
27 In the event the Senate fails or refuses to act on the

1 appointment, the person whose name was submitted shall
2 continue to serve until action is taken on the appointment by
3 the Senate.

4 (e) The statewide 911 Board shall have the following
5 powers and duties:

6 (1) To develop a 911 State Plan. In fulfilling this
7 duty, the 911 Board shall monitor trends in voice
8 communications service technology and in enhanced 911 service
9 technology, investigate, and incorporate Geographical
10 Information Systems (GIS) mapping and other resources into the
11 plan, and formulate recommended strategies for the efficient
12 and effective delivery of enhanced 911 service. In addition,
13 the board, in conjunction with the Permanent Oversight
14 Commission and utilizing the information developed by the
15 Department of Examiners of Public Accounts pursuant to Section
16 11-98-13.1, shall study the operational and financial
17 condition of the current 911 systems within the State of
18 Alabama and publish a report detailing the same; study the
19 rates charged for wireline 911 services and make adjustments
20 to the rates as provided in this chapter; recommend a
21 long-term plan for the most efficient and effective delivery
22 of 911 services in Alabama over both the long- and short-term;
23 recommend any legislation necessary to implement the long-term
24 plan; and report its recommendations to the Oversight
25 Commission no later than February 1, 2014.

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

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

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

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

13 (6) To accept gifts, grants, or other money for the
14 911 Fund.

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

18 (8) To adopt rules in accordance with the
19 Administrative Procedure Act to implement this chapter; to
20 establish the statewide 911 charge; and, in response to
21 technological changes, apply, collect, and remit the statewide
22 911 charge, without duplication, to the active service
23 connections of other originating service providers that are
24 technically capable of accessing a 911 system, subject to the
25 provisions applicable to voice communications service
26 providers under this chapter. Any proposed rule extending the
27 application of the 911 charge beyond those voice communication

1 services defined in paragraphs a. to c., inclusive, of
2 subdivision (18) of Section 11-98-1, upon approval by the 911
3 Board shall be submitted to the Permanent Oversight Committee
4 which, by an affirmative vote of six of its members, may
5 disapprove the action. If not disapproved by the Permanent
6 Oversight Committee within 15 days of submission, the proposed
7 rule shall be deemed adopted by the 911 Board on the fifteenth
8 day after submission and shall be certified to the Legislative
9 Reference Service in accordance with the Administrative
10 Procedure Act. This authority does not include the regulation
11 of any 911 service, such as the establishment of technical
12 standards.

13 (9) To take other necessary and proper action to
14 implement this chapter.

15 §11-98-5.2.

16 (a) Effective October 1, 2013, the 911 Fund shall be
17 created as an insured interest-bearing account into which the
18 911 Board shall deposit all revenues derived from the service
19 charge levied on voice communications service providers under
20 this chapter and all prepaid wireless 911 charges received
21 from the department. The revenues deposited into the 911 Fund
22 shall not be monies or property of the state and shall not be
23 subject to appropriation by the Legislature. The 911 Board
24 shall administer the fund and shall credit the 911 Fund all
25 revenues received. The fund and revenues generated by the fund
26 may only be used as provided in this chapter.

1 (b) Effective October 1, 2013, there shall first be
2 deducted, no more than one time during each calendar month,
3 from the total amount of the statewide 911 charges paid over
4 to the 911 Board during such month, a sum not to exceed one
5 percent of the total amount, to be applied by the 911 Board
6 exclusively for payment of administrative expenses theretofore
7 incurred by it and, at the Board's discretion, the awarding of
8 additional operational grants to districts outside of the
9 other distribution criteria in this subsection upon a showing
10 of hardship. The balance of the total amount of the statewide
11 911 charges paid over to the 911 Board during each calendar
12 month shall be deposited into the 911 Fund and shall be
13 apportioned and distributed in accordance with the succeeding
14 provisions of this subsection.

15 (1) There shall be distributed each month among all
16 then existing districts, from the moneys then on deposit in
17 the 911 Fund, an aggregate amount equal to the sum of a. 80
18 percent of the portion of the statewide 911 charges remitted
19 to the 911 Board with respect to the month by CMRS providers
20 and for prepaid wireless 911 charges, plus b. 100 percent of
21 all other statewide 911 charges remitted to the 911 Board with
22 respect to the month.

23 (2) There shall be paid each month to each then
24 existing district, out of the amount described in subdivision
25 (1), one-twelfth of the sum of the base distribution amount
26 defined, as applicable, in subdivisions (3) and (4), plus the
27 per capita distribution amount defined in subdivision (5).

(3) The term base distribution amount, as used in this section with respect to any district with a functioning 911 system as of September 30, 2011, and except as otherwise provided in this subdivision and subdivision (4), means the highest dollar amount per annum of emergency telephone service charges, excluding any fees received from the CMRS Fund, if any, received by the district during the five prior consecutive fiscal years ending on September 30, 2011; provided, that, if the district first levied any such service charge, or if the district increased the rate of the charge, during the fiscal year ending on September 30, 2011, or seven months thereafter, then the total dollar amount of the emergency telephone service charges with respect to the fiscal year ending September 30, 2011, shall be deemed to be the amount that would have been collected had the increased rate been in effect for the entire fiscal year ending September 30, 2011. No adjustment shall be made under the preceding sentence to take into account any increase in an emergency service charge adopted by a district after January 1, 2012, if such district shall have otherwise increased its emergency service charge since January 1, 2011. For any district established prior to September 30, 2011, but which initiated 911 service between September 30, 2011, and June 1, 2012, the base distribution amount shall be deemed to be the amount that would have been collected if the 911 charge imposed by the district on August 1, 2012, had been in effect for the entire fiscal year. For any county or municipal district that was

1 funding an E-911 system on September 30, 2011, without a
2 separate 911 fee, the base distribution amount shall be the
3 product of: That amount determined by the board to be the
4 county or municipality's total funding of its E-911 system for
5 purposes of calculation of the initial statewide rate under
6 subsection (a) of Section 11-98-5, multiplied by a fraction,
7 the numerator of which is the total wireline 911 fees paid to
8 all districts as of September 30, 2011, and the denominator of
9 which is the total wireline and wireless 911 fees determined
10 by the board to have been paid to all districts and the CMRS
11 Board for the same period. Within 90 days of the effective
12 date of any adjustment in the statewide 911 charge to increase
13 the baseline 911 revenues under subdivision (2) of subsection
14 (c) of Section 11-98-5, the base distribution amount shall be
15 increased by an amount equal to the product of: a. the total
16 amount distributed to the district in the immediately
17 preceding fiscal year, multiplied by b. the rate of growth,
18 determined as a percentage, in the CPI-U utilized by the 911
19 Board for the prior five year period pursuant to subdivision
20 (2) of subsection (c) of Section 11-98-5.

21 (4)a. Any district that has, prior to March 1, 2011,
22 entered into one or more contracts, including, without
23 limitation, any lease, lease-purchase, or purchase agreement
24 or contract, to acquire equipment utilized or to be utilized
25 as part of a single, comprehensive, countywide radio system to
26 be operated within the boundaries of the district, may, no
27 later than December 31, 2012, provide the 911 Board a copy of

1 a pro forma financial statement setting forth revenue and
2 expense projections demonstrating the ability of the district
3 to pay all principal and interest maturing or coming due with
4 respect to any contracts, and any bonds or other obligations
5 issued or incurred by the district to evidence the borrowing
6 of money by the district in connection with the planning,
7 acquisition, construction, and equipment of the countywide
8 radio system, and other system costs. Such revenue projections
9 shall set forth the district's annualized revenues that would
10 be included in the base distribution amount as calculated in
11 subdivision (3), for the fiscal year of the district ending on
12 September 30, 2011, or any fiscal year thereafter during which
13 the contracts, bonds, or other obligations are expected to be
14 outstanding and unpaid, and the amount received by the
15 district during the fiscal year ending September 30, 2011,
16 from the CMRS Fund. The pro forma statement shall be
17 accompanied by such supporting information as may be
18 reasonably requested by the 911 Board, whose review shall be
19 limited to the accuracy and reasonableness of the revenue and
20 expense projections contained therein solely for the purposes
21 of this subsection and which shall not extend to the approval
22 or disapproval of any projects authorized by the district
23 under existing law.

24 b. For a district meeting the requirements of this
25 subdivision, the base distribution amount for the district,
26 during any fiscal year or years in which the contracts, bonds,
27 or other obligations outstanding and unpaid, shall be

1 increased by the difference, if any, between the revenue
2 projections shown in the pro forma financial statement and the
3 base distribution amount as calculated under subdivision (3),
4 and the district's per capita distribution amount, as defined
5 in subdivision (5), shall be reduced by an amount equal to the
6 difference, with the amount of the reduction added to the
7 amount available for payment to other districts under
8 subdivision (5).

9 (5) The term per capita distribution amount, as used
10 in this section with respect to any district, means the
11 district's pro rata share, computed according to the
12 distribution formula, of the amount described in subdivision
13 (1) that remains after payment in full of the aggregate base
14 distribution amounts required to be paid to all districts.

15 (6) Notwithstanding the preceding provisions of this
16 subsection, there shall never be paid to any district, during
17 any fiscal year, from the moneys deposited into the 911 Fund,
18 an amount less than the sum of the total dollar amount of the
19 initial base distribution amount received by the district as
20 calculated under subdivision (3) of subsection (b) of Section
21 11-98-5.2 plus, without duplication, amount received by the
22 district from the CMRS Fund during the fiscal year ending
23 September 30, 2011. For any county or municipal district that
24 was funding an E-911 system on September 30, 2011, without a
25 separate 911 fee, there shall never be paid from the moneys
26 deposited into the 911 Fund, during any fiscal year, an amount
27 less than the sum that amount determined by the board to be

1 the county or municipality's funding of its E-911 system for
2 purposes of calculation of the initial statewide rate under
3 this section.

4 (7) Except as otherwise provided in subdivision (6),
5 there shall be set aside and deposited each month, into a
6 separate account, which may, but need not, form a part of the
7 911 Fund, an amount equal to 20 percent of the portion of the
8 statewide 911 charges remitted to the 911 Board with respect
9 to the month by CMRS providers. All moneys in the separate
10 account shall be used exclusively for payment of actual and
11 direct costs incurred by CMRS providers in complying with
12 wireless E-911 service requirements established by the FCC
13 Order and complying with any rules or regulations adopted at
14 any time by the FCC pursuant to the FCC Order; and the costs
15 may include, without limitation, costs and expenses incurred
16 in connection with designing, upgrading, purchasing, leasing,
17 programming, installing, testing, or maintaining all necessary
18 data, hardware, and software required in order to provide
19 Phase II Enhanced 911, and the incremental costs of operating
20 Phase II Enhanced 911.

21 (c) Each CMRS provider wishing to participate in the
22 payments provided in subdivision (7) subsection (b) for
23 expenses related to providing Phase II Enhanced 911 shall
24 certify to the 911 Board that it does not then collect a
25 cost-recovery or other similar separate charge from its
26 customers. CMRS providers failing to provide the certification
27 by October 1 are ineligible to receive any payments until such

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

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

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

19 §11-98-5.3.

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

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

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

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

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

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

8 b. Must be paid for in advance.

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

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

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

1 single, non-itemized price as part of the purchase of a
2 wireless communications device, the seller may elect not to
3 apply the prepaid communications charge to the initial
4 transaction. For these purposes, a service allotment
5 denominated as 10 minutes or less, or five dollars (\$5) or
6 less, is a minimal amount. If the seller elects to collect
7 such charge, it shall be treated as all other prepaid
8 communications charges under this chapter.

9 (2) For purposes of subdivision (1) of subsection
10 (b), a retail transaction that is effected in person by a
11 prepaid wireless consumer at a business location of the seller
12 shall be treated as occurring in this state if that business
13 location is in this state, and any other retail transaction
14 shall be treated as occurring in this state if the retail
15 transaction is treated as occurring in this state for purposes
16 of Chapter 23 of Title 40.

17 (3) The prepaid wireless 911 charge is the liability
18 of the prepaid wireless consumer and not of the seller or of
19 any provider, except that the seller shall be liable to remit
20 all prepaid wireless 911 charges that the seller collects from
21 prepaid wireless consumers as provided in subdivisions (6) and
22 (7) of this subsection, including all charges that the seller
23 is deemed to collect where the amount of the charge has not
24 been separately stated on an invoice, receipt, or other
25 similar document provided to the prepaid wireless consumer by
26 the seller.

1 (4) The amount of the prepaid wireless 911 charge
2 that is collected by a seller from a prepaid wireless
3 consumer, if the amount is separately stated on an invoice,
4 receipt, or other similar document provided to the prepaid
5 wireless consumer by the seller, shall not be included in the
6 base for measuring any tax, fee, surcharge, or other charge
7 that is imposed by this state, any political subdivision of
8 this state, or any intergovernmental agency.

9 (5) The prepaid wireless 911 charge shall be
10 increased or decreased, as applicable, upon any change to the
11 rate specified in subdivision (1) of subsection (b) of Section
12 11-98-7 or, upon its implementation, the statewide 911 charge.
13 The increase or decrease shall be effective on the effective
14 date of the change to the postpaid charge or, if later, the
15 first day of the first calendar month to occur at least 60
16 days after the enactment of the change to the rate specified
17 in subdivision (1) of subsection (b) of Section 11-98-7 or,
18 upon its implementation, the statewide 911 charge. The
19 department shall provide not less than 30 days of advance
20 notice of the increase or decrease on the department's
21 website.

22 (6) Prepaid wireless 911 charges collected by
23 sellers shall be remitted to the department at the times and
24 in the manner provided by Chapter 23 of Title 40. The
25 department shall establish registration and payment procedures
26 that substantially coincide with the registration and payment
27 procedures that apply to Chapter 23, Title 40.

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

4 (8) The audit and appeal procedures applicable to
5 Chapter 23 of Title 40 shall apply to prepaid wireless 911
6 charges.

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

13 (10) The department shall pay all remitted prepaid
14 wireless 911 charges over to the Commercial Mobile Radio
15 Services Board and, upon the effective date of the statewide
16 911 charge, to the statewide 911 Board, within 30 days of
17 receipt, for use by the board in accordance with the purposes
18 permitted by this chapter, after deducting an amount, not to
19 exceed two percent of collected charges, that shall be
20 retained by the department to reimburse its direct costs of
21 administering the collection and remittance of prepaid
22 wireless 911 charges.

23 (c) The enactment of this section does not
24 constitute an expression as to the application of the CMRS
25 service charge to prepaid service before the adoption of the
26 act adding this section.

27 §11-98-13.

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

9 §11-98-13.1.

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

12 (1) Study the operational and financial condition of
13 the current 911 systems within the State of Alabama and
14 publish a report detailing the same.

15 (2) Study the rate charged for 911 services and make
16 recommendations to the board regarding adjustments to the
17 rate.

18 (3) Develop recommendations for the most efficient
19 and effective delivery of 911 services in Alabama over both
20 the long- and short-term.

21 (4) Study the charges levied by each
22 telecommunications provider to each communications district
23 for both data base and network charges.

24 (5) Develop legislation necessary to implement its
25 long-term 911 plan.

1 (6) Report its findings, recommendations, and
2 proposed legislation to the Legislature prior to the last day
3 of the 2014 Regular Session.

4 (b) The commission shall remain in place until
5 disbanded by the Legislature and shall submit reports
6 detailing the progress in the implementation of the long-term
7 plan at such intervals as it deems appropriate.

8 (c) The commission shall be comprised of the
9 following members:

10 (1) Three members of the House of Representatives,
11 to be appointed by the Speaker of the House of
12 Representatives.

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

15 (3) Three members to be appointed by the Governor,
16 who shall include a representative of the districts and the
17 State 911 Coordinator.

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

21 (e) The chair and vice chair of the commission shall
22 be elected at the first meeting by the members of the
23 commission.

24 (f) Upon request of the chair, the Secretary of the
25 Senate and the Clerk of the House of Representatives shall
26 provide necessary clerical assistance for the work of the
27 commission.

1 (g) Each legislative member of the commission shall
2 be entitled to his or her regular legislative compensation,
3 his or her per diem, and travel expenses for each day he or
4 she attends a meeting of the commission. Upon requisitions
5 signed by the chair of the commission, these payments shall be
6 paid out of any funds appropriated to the use of the
7 Legislature by means of warrants drawn by the Comptroller on
8 the State Treasury. Notwithstanding the foregoing, no member
9 shall receive additional legislative compensation or per diem
10 when the Legislature is in session or if a member is being
11 paid any other payments on the same dates for attendance on
12 other state business.

13 (h) The Department of Examiners of Public Accounts
14 shall gather and report to the Permanent Oversight Commission
15 the information necessary to evaluate 911 emergency
16 communications funding across the State of Alabama. Each
17 communications district established pursuant to Section
18 11-98-2 and the Commercial Mobile Radio Service Emergency
19 Telephone Services Board and the statewide 911 Board, unless
20 exempted by the Department of Examiners of Public Accounts for
21 good cause, shall provide at least the information specified
22 following to the Department of Examiners of Public Accounts no
23 later than 180 days after the effective date of the act adding
24 this section.

25 (1) For wireline 911 and for fiscal years ending
26 2009, 2010, and 2011, the information provided by
27 communications districts shall include:

1 a. 911 rates in effect for residence telephone
2 service and for business telephone service in the
3 communications district for each fiscal year.

4 b. 911 revenues collected by the communications
5 district by month for each fiscal year.

6 c. The amount of any funding provided to the
7 communications district by a county or municipality in which
8 the communications district resides by month for each fiscal
9 year.

10 d. The amount of revenues received by the
11 communications district from the Commercial Mobile Radio
12 Service Emergency Telephone Services Board by month for each
13 fiscal year.

14 e. The amount of any direct grants from federal or
15 state government and any state matches for federal, state,
16 local, or private grants for each fiscal year.

17 f. Gifts or other amounts not otherwise reported in
18 this section.

19 g. Amounts held in any savings or investment
20 accounts or reserve or escrow accounts by fiscal year.

21 h. Each district shall identify and specify in
22 detail how the 911 funds received by each district were spent
23 in each fiscal year. The Department of Examiners of Public
24 Accounts shall identify any areas of noncompliance with this
25 chapter.

26 i. Monthly charges paid to each telecommunications
27 service provider for both data base and network charges.

1 j. Each communications district that fails to
2 provide the information required by this section to the
3 Department of Examiners of Public Accounts by the deadline
4 specified in this subsection, unless exempted by the
5 Department of Examiners of Public Accounts for good cause,
6 shall not be eligible to receive distributions from the
7 Commercial Mobile Radio Service Emergency Telephone Services
8 Board after the deadline.

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

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

16 b. 911 revenues disbursed to each communications
17 district by month by fiscal year.

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

21 d. Gifts or other amounts not otherwise reported in
22 this section.

23 e. Amounts held in any savings or investment
24 accounts or reserve or escrow accounts by fiscal year.

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

1 g. The amount of funds that were escrowed for the
2 purpose of reimbursing wireless carriers for cost recovery or
3 implementation for Phase I and Phase II 911 implementation
4 costs and the amounts paid to the wireless carriers for cost
5 recovery in each fiscal year segregated by Phase I and Phase
6 II.

7 (i) The Commercial Mobile Radio Service Emergency
8 Telephone Services Board and the statewide 911 Board shall
9 track monthly wireless 911 prepaid revenue following
10 implementation of the prepaid 911 point-of-sale mechanism
11 specified in Section 11-98-5.3 and shall file a monthly report
12 with the Permanent Oversight Commission detailing and
13 comparing prepaid 911 revenues received in the 2012 fiscal
14 year to the prepaid revenues received in the 2011 fiscal year.
15 The first monthly report shall be filed with the commission no
16 later than 60 days following implementation of the
17 point-of-sale system and on a monthly basis thereafter.

18 (j) The Department of Examiners of Public Accounts
19 shall promulgate rules and a common financial reporting format
20 to establish annual reporting requirements applicable to all
21 communications districts and the Commercial Mobile Radio
22 Service Emergency Telephone Services Board or statewide 911
23 Board that the committee shall need to monitor 911 surcharge
24 rates, 911 revenues, and the use of 911 funds on an ongoing
25 annual basis. The Department of Examiners of Public Accounts
26 shall gather and report to the commission the information

1 necessary to evaluate 911 emergency communications funding
2 across the State of Alabama on an ongoing basis.

3 (k) The annual reports of the communications
4 districts and the Commercial Mobile Radio Service Emergency
5 Telephone Services Board and any reports developed by the
6 commission shall be posted no later than 60 days following the
7 end of the fiscal year on a website to be determined by the
8 Department of Examiners of Public Accounts.

9 (l) To assist in the development of the long-term
10 plan for 911 in the state, the statewide 911 Board and
11 Permanent Oversight Commission may solicit input from members
12 of the 911 districts in the state, from members of the
13 communications industry operating in the state, and, if deemed
14 necessary, from 911 experts outside the state.

15 §11-98-14.

16 The 911 Board shall be subject to the Alabama Sunset
17 Law, Chapter 20, Title 41, as an enumerated agency as provided
18 in Section 41-20-3, and shall have a termination date of
19 October 1, 2016, and every four years thereafter, unless
20 continued pursuant to the Alabama Sunset Law.

21 §11-98-15.

22 The 911 Board shall reimburse the Department of
23 Examiners of Public Accounts to the extent of any unused funds
24 retained for administrative expenses under this section or
25 Section 11-98-5.2(b) for the amount of actual costs incurred
26 in carrying out the requirements placed upon the Department of
27 Examiners of Public Accounts by this chapter, as evidenced by

1 invoice presented to the board. By January 1, 2013, the
2 Department of Examiners of Public Accounts shall provide the
3 911 Board with a projection of its annual costs in meeting the
4 requirements of this chapter, which shall be treated and
5 retained by the 911 Board as an administrative fee in addition
6 to the administrative allowance specified in Section
7 11-98-5.2(b). The invoiced amount shall be due and payable
8 within 30 days of presentment.

9 Section 3. Sections 11-98-5.1, 11-98-7.1, and
10 11-98-8, Code of Alabama 1975, are repealed.

11 Section 4. Sections 11-98-4.1, 11-98-5.2,
12 11-98-13.1, 11-98-14, and 11-98-15, Code of Alabama 1975,
13 shall become effective immediately following the passage and
14 approval of this act by the Governor, or its otherwise
15 becoming law. Section 11-98-5.3, Code of Alabama 1975, shall
16 become effective on the first day of the fourth month
17 following the passage and approval of this act by the
18 Governor, or its otherwise becoming law. The remaining
19 provisions of this act shall become effective on October 1,
20 2013.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... .07-FEB-12

Read for the second time and placed
on the calendar with 1 substitute
and 1 amendment..... .01-MAR-12

Read for the third time and passed
as amended..... .03-APR-12

Yeas 77, Nays 19, Abstains 0

Greg Pappas
Clerk