

1 SB317  
2 160171-2  
3 By Senators Marsh, Waggoner, Ward and Orr  
4 RFD: Governmental Affairs  
5 First Read: 06-FEB-14

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to E-911 services; to amend Sections  
12 11-98-1, 11-98-4.1, and 11-98-5, Code of Alabama 1975; to  
13 clarify the definition of a subscriber; to allow the Governor  
14 to appoint 911 Board members from multiple candidates  
15 recommended for designated positions by certain trade  
16 associations, governmental entities, and industry groups; to  
17 require the statewide 911 Board to establish the maximum  
18 number of wireline 911 charges imposed at a single subscriber  
19 location; and to clarify and affirm the application of the 911  
20 charge for users served by certain digital service platforms.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 11-98-1, 11-98-4.1, and 11-98-5,  
23 Code of Alabama 1975, are amended to read as follows:

24 "§11-98-1.

25 "(a) As used in this chapter, the following words  
26 and terms have the following meanings, unless the context  
27 clearly indicates otherwise:

1           "(1) AUTOMATIC NUMBER IDENTIFICATION. An enhanced  
2 911 service capability that enables the automatic display of  
3 the 10-digit telephone number used to place a 911 call. The  
4 term includes pseudo-automatic number identification, which  
5 means an enhanced 911 service capability that enables  
6 identification of the subscriber.

7           "(2) CMRS. Commercial mobile radio service under  
8 Sections 3(27) and 332(d) of the Federal Telecommunications  
9 Act of 1996, 47 U.S.C. §151 et seq., and Omnibus Budget  
10 Reconciliation Act of 1993, Pub. L. 103-66, Aug. 10, 1993, 107  
11 Stat. 312. The term includes the term wireless and service  
12 provider by any wireless real time two-way voice communication  
13 device, including radio-telephone communications used in  
14 cellular telephone service, personal communication service, or  
15 the 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           "(3) CMRS CONNECTION. Each mobile telephone number  
24 assigned to a CMRS subscriber with a place of primary use in  
25 Alabama.

26           "(4) CMRS PROVIDER. A person or entity that provides  
27 CMRS.

1           "(5) CREATING AUTHORITY. The municipal governing  
2 body of any municipality or the governing body of any county  
3 that, by passage of a resolution or ordinance, creates a  
4 district within its respective jurisdiction in accordance with  
5 this chapter.

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

11           "(7) DISTRICT. A communication district created  
12 pursuant to this chapter.

13           "(8) ENHANCED 911, E-911, or E-911 SYSTEM. An  
14 emergency telephone system that directs 911 calls to  
15 appropriate public safety answering points by selective  
16 routing based on the geographical location from which the call  
17 originated, that provides the capability for automatic number  
18 identification, and the features that the Federal  
19 Communications Commission may require in the future. Such  
20 system may include lines, facilities, and equipment necessary  
21 for answering, transferring, and dispatching public emergency  
22 telephone calls originated by persons within the service area  
23 who dial 911 but does not include dial tone first which may be  
24 made available by the service provider based on the ability to  
25 recover the costs associated with its implementation and, to  
26 the extent required by law, consistent with tariffs with and  
27 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          "(13) PUBLIC SAFETY AGENCY. An agency of the State  
20          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          "(14) STATEWIDE 911 BOARD or 911 BOARD. The  
25          statewide 911 Board established pursuant to Section 11-98-4.1.

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

1           "(16) SUBSCRIBER. A person who purchases or  
2           subscribes to a voice communications service and is able to  
3           receive it or use it periodically over time; provided,  
4           however, that for purposes of the imposition and collection of  
5           the statewide 911 charge the term subscriber shall not include  
6           the State of Alabama, the counties within the state,  
7           incorporated municipalities of the State of Alabama, county  
8           and city school boards, independent school boards, and all  
9           educational institutions and agencies of the State of Alabama,  
10          the counties within the state, or any incorporated  
11          municipalities of the State of Alabama.

12           "(17) TECHNICAL PROPRIETARY INFORMATION. Technology  
13          descriptions, technical information, or trade secrets,  
14          including the term trade secrets as defined by the Alabama  
15          Trade Secrets Act of 1987, Chapter 27 of Title 8, and the  
16          actual or developmental costs thereof which are developed,  
17          produced, or received internally by a voice communications  
18          service provider or by its employees, directors, officers, or  
19          agents.

20           "(18) VOICE COMMUNICATIONS SERVICE. Any of the  
21          following:

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

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

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

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

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

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

14           "§11-98-4.1.

15           "(a) There is created a statewide 911 Board  
16 comprised of 13 members that shall reflect the racial, gender,  
17 geographic, urban/rural, and economic diversity of the state.  
18 All appointing authorities shall coordinate their appointments  
19 so that diversity of gender, race, and geographical areas is  
20 reflective of the makeup of this state. The 911 Board shall be  
21 created effective July 1, 2012, and until the effective date  
22 of the statewide 911 charge pursuant to Section 11-98-5, with  
23 cooperation of the CMRS Board, shall plan for the  
24 implementation of the statewide 911 charge and the  
25 distribution of the revenues as provided herein. The  
26 reasonable administrative expenses incurred by the 911 Board  
27 prior to the implementation of the statewide 911 charge may be

1       deducted from the existing CMRS Fund. Upon the effective date  
2       of the new statewide 911 charge, the 911 Board shall replace  
3       and supersede the CMRS Board formerly created pursuant to this  
4       chapter, and the CMRS Fund shall be incorporated into, and  
5       considered part of, the 911 Fund.

6               "(b) The 13 members of the 911 Board, each of whom  
7       shall serve for a term of four years, shall be appointed by  
8       the Governor as follows:

9               "(1) Seven members recommended by the Alabama  
10       Association of 911 Districts, one from each of the seven  
11       congressional districts, with each district representative  
12       recommended selected by vote of the Alabama Association of 911  
13       Districts members from that congressional district. The  
14       initial appointments shall include the three district  
15       representatives on the CMRS Board who shall serve through  
16       March 31, 2014, and a member from the first, third, fifth, and  
17       seventh congressional districts as provided herein. Following  
18       the March 31, 2014, expiration of the terms of the district  
19       representatives drawn from the CMRS Board, the Governor shall  
20       appoint a member recommended by the Association of 911  
21       Districts from each of the second, fourth, and sixth  
22       congressional districts, it being the intent of this section  
23       that each of the seven district representatives on the board  
24       be from a different congressional district, as such districts  
25       exist on May 8, 2012.

26               "(2) Two members recommended by CMRS providers  
27       licensed to do business in Alabama.

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

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

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

20           "(d) For all terms expiring after June 1, 2014, the  
21 governmental entities or industry groups identified in  
22 subsection (a) shall recommend at least two different persons  
23 for each board position for which they are charged with making  
24 a recommendation, with the Governor appointing a member from  
25 among such recommended candidates. For all terms expiring  
26 after July 1, 2015, appointments made by the Governor shall be  
27 subject to confirmation by the Senate as provided in this

1 subsection. Appointments made at times when the Senate is not  
2 in session shall be effective immediately ad interim and shall  
3 serve until the Senate acts on the appointment as provided  
4 herein. Any appointment made while the Senate is not in  
5 session shall be submitted to the Senate not later than the  
6 third legislative day following the reconvening of the  
7 Legislature. In the event the Senate fails or refuses to act  
8 on the appointment, the person whose name was submitted shall  
9 continue to serve until action is taken on the appointment by  
10 the Senate.

11 "(e) The statewide 911 Board shall have the  
12 following powers and duties:

13 "(1) To develop a 911 State Plan. In fulfilling this  
14 duty, the 911 Board shall monitor trends in voice  
15 communications service technology and in enhanced 911 service  
16 technology, investigate, and incorporate Geographical  
17 Information Systems (GIS) mapping and other resources into the  
18 plan, and formulate recommended strategies for the efficient  
19 and effective delivery of enhanced 911 service. In addition,  
20 the board, in conjunction with the Permanent Oversight  
21 Commission and utilizing the information developed by the  
22 Department of Examiners of Public Accounts pursuant to Section  
23 11-98-13.1, shall study the operational and financial  
24 condition of the current 911 systems within the State of  
25 Alabama and publish a report detailing the same; study the  
26 rates charged for wireline 911 services and make adjustments  
27 to the rates as provided in this chapter; recommend a

1 long-term plan for the most efficient and effective delivery  
2 of 911 services in Alabama over both the long- and short-term;  
3 recommend any legislation necessary to implement the long-term  
4 plan; and report its recommendations to the Permanent  
5 Oversight Commission no later than February 1, 2014.

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

8 "(3) To distribute revenue in the 911 Fund in  
9 accordance with this chapter.

10 "(4) To establish policies and procedures, adopted  
11 in accordance with the Alabama Administrative Procedure Act,  
12 to fund advisory services and training for districts and to  
13 provide funds in accordance with these policies and procedures  
14 to the extent funds are available.

15 "(5) To make and enter into contracts and agreements  
16 necessary or incidental to the performance of its powers and  
17 duties under this chapter and to use revenue available to the  
18 911 Board under Section 11-98-5 for administrative expenses to  
19 pay its obligations under the contracts and agreements.

20 "(6) To accept gifts, grants, or other money for the  
21 911 Fund.

22 "(7) To undertake its duties in a manner that is  
23 competitively and technologically neutral as to all voice  
24 communications service providers.

25 "(8) To adopt rules in accordance with the  
26 Administrative Procedure Act to implement this chapter; to  
27 establish the statewide 911 charge; and, in response to

1 technological changes, apply, collect, and remit the statewide  
2 911 charge, without duplication, to the active service  
3 connections of other originating service providers that are  
4 technically capable of accessing a 911 system, subject to the  
5 provisions applicable to voice communications service  
6 providers under this chapter. Any proposed rule extending the  
7 application of the 911 charge beyond those voice communication  
8 services defined in paragraphs a. to c., inclusive, of  
9 subdivision (18) of Section 11-98-1, upon approval by the 911  
10 Board shall be submitted to the Permanent Oversight Committee  
11 which, by an affirmative vote of six of its members, may  
12 disapprove the action. If not disapproved by the Permanent  
13 Oversight Committee within 15 days of submission, the proposed  
14 rule shall be deemed adopted by the 911 Board on the fifteenth  
15 day after submission and shall be certified to the Legislative  
16 Reference Service in accordance with the Administrative  
17 Procedure Act. This authority does not include the regulation  
18 of any 911 service, such as the establishment of technical  
19 standards.

20 "(9) To take other necessary and proper action to  
21 implement this chapter.

22 "§11-98-5.

23 "(a) A single, monthly statewide 911 charge shall be  
24 imposed on each active voice communications service connection  
25 in Alabama that is technically capable of accessing a 911  
26 system. For each digital transmission link, including primary  
27 rate interface service or Digital Signal-1 (DS-1) level

1 service, or equivalent, that can be channelized and split into  
2 23 or 24 voice-grade or data-grade channels for voice  
3 communications, a subscriber shall be assessed on the number  
4 of channels configured for or capable of accessing a 911  
5 system. If the number of such channels so configured is not  
6 readily determinable, the service charge per DS-1, or  
7 equivalent, shall be assessed on 23 voice communications  
8 service connections. The 911 Board shall also establish a  
9 maximum number of wireline 911 charges to be imposed at a  
10 single subscriber location for bills rendered on or after  
11 January 1, 2015, following the same procedures and deadlines  
12 provided in this subsection for a subsequent adjustment to the  
13 initial statewide 911 charge, which shall not be counted  
14 against the number of permitted rate adjustments during such  
15 fiscal year. For CMRS providers, the statewide 911 charge  
16 shall be levied on each CMRS connection with a primary place  
17 of use in the State of Alabama. The statewide 911 charge is  
18 payable by the subscriber to the voice communications service  
19 provider. Except as otherwise provided in this chapter, the  
20 voice communications service provider shall list the statewide  
21 911 charge separately from other charges on the bill and the  
22 charge shall be collected according to the regular billing  
23 practice of the voice communications service provider. The  
24 statewide 911 charge collected under this section shall not be  
25 subject to taxes or charges levied on or by the voice  
26 communications service provider nor shall the charges and fees  
27 be considered revenue of the voice communications service

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

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

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

19           "(c) Subject to succeeding provisions of this  
20 subsection:

21           "(1) The 911 Board, from time to time but in no  
22 event more than once every fiscal year, shall increase or  
23 decrease the rate of the statewide 911 charge by an amount  
24 reasonably calculated to produce the baseline 911 revenues,  
25 plus any additional revenues necessary to meet the  
26 requirements of subdivision (6) of subsection (b) of Section  
27 11-98-5.2.

1           "(2) The 911 Board, not later than October 1 in the  
2 year 2018 and each fifth year thereafter, shall adjust the 911  
3 charge to produce an increase in the baseline 911 revenues  
4 sufficient to increase the amount distributed to each district  
5 under this chapter during the immediately preceding fiscal  
6 year by an amount equal to the rate of growth, determined as a  
7 percentage, in the Consumer Price Index for Urban Consumers  
8 (CPI-U) for such five-year period. Once adjusted as provided  
9 in this section, the resulting revenues shall become the  
10 baseline 911 revenues until amended or adjusted under the  
11 procedures established in this chapter.

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

1 the amounts deemed by the 911 Board to be necessary to satisfy  
2 the requirements of this chapter.

3 "(d) A voice communications service provider has no  
4 obligation to take any legal action to enforce the collection  
5 of the statewide 911 charge billed to a subscriber. The 911  
6 Board may initiate a collection action, and reasonable costs  
7 and attorney's fees associated with that collection may be  
8 assessed against the subscriber. A voice communications  
9 service provider shall quarterly report to the 911 Board the  
10 amount of the provider's uncollected service charges. The 911  
11 Board may request, to the extent permitted by federal and  
12 state privacy laws, the name, address, and telephone number of  
13 a subscriber who refuses to pay the statewide 911 charge.

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

16 "(f) At any time after October 1, 2013, should the  
17 911 Board determine that the revenues allocated to CMRS  
18 providers under subdivision (7) of subsection (b) of Section  
19 11-98-5.2 for reimbursement to CMRS providers exceed those  
20 necessary to meet funding requirements, it may distribute any  
21 excess revenues in accordance with subdivision (1) of  
22 subsection (b) of Section 11-98-5.2."

23 Section 2. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 06-FEB-14

Read for the second time and placed on the calen-  
dar..... 25-FEB-14

Read for the third time and passed as amended .... 18-MAR-14

Yeas 31  
Nays 0

Patrick Harris  
Secretary