

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

1 SB317

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3  
4 ENROLLED, An Act,

5 Relating to E-911 services; to amend Sections  
6 11-98-1, 11-98-4.1, and 11-98-5, Code of Alabama 1975; to  
7 clarify the definition of a subscriber; to allow the Governor  
8 to appoint 911 Board members from multiple candidates  
9 recommended for designated positions by certain trade  
10 associations, governmental entities, and industry groups; to  
11 require the statewide 911 Board to establish the maximum  
12 number of wireline 911 charges imposed at a single subscriber  
13 location; and to clarify and affirm the application of the 911  
14 charge for users served by certain digital service platforms.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§11-98-1.

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

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

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

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

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

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

24 "(5) CREATING AUTHORITY. The municipal governing  
25 body of any municipality or the governing body of any county

1 that, by passage of a resolution or ordinance, creates a  
2 district within its respective jurisdiction in accordance with  
3 this chapter.

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

9 "(7) DISTRICT. A communication district created  
10 pursuant to this chapter.

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

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

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

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

22           "(18) VOICE COMMUNICATIONS SERVICE. Any of the  
23 following:

24           "a. The transmission, conveyance, or routing of  
25 real-time, two-way voice communications to a point or between

1 or among points by or through any electronic, radio,  
2 satellite, cable, optical, microwave, wireline, wireless, or  
3 other medium or method, regardless of the protocol used.

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

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

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

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

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

17 "§11-98-4.1.

18 "(a) There is created a statewide 911 Board  
19 comprised of 13 members that shall reflect the racial, gender,  
20 geographic, urban/rural, and economic diversity of the state.  
21 All appointing authorities shall coordinate their appointments  
22 so that diversity of gender, race, and geographical areas is  
23 reflective of the makeup of this state. The 911 Board shall be  
24 created effective July 1, 2012, and until the effective date  
25 of the statewide 911 charge pursuant to Section 11-98-5, with

1 cooperation of the CMRS Board, shall plan for the  
2 implementation of the statewide 911 charge and the  
3 distribution of the revenues as provided herein. The  
4 reasonable administrative expenses incurred by the 911 Board  
5 prior to the implementation of the statewide 911 charge may be  
6 deducted from the existing CMRS Fund. Upon the effective date  
7 of the new statewide 911 charge, the 911 Board shall replace  
8 and supersede the CMRS Board formerly created pursuant to this  
9 chapter, and the CMRS Fund shall be incorporated into, and  
10 considered part of, the 911 Fund.

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

14 "(1) Seven members recommended by the Alabama  
15 Association of 911 Districts, one from each of the seven  
16 congressional districts, with each district representative  
17 recommended selected by vote of the Alabama Association of 911  
18 Districts members from that congressional district. The  
19 initial appointments shall include the three district  
20 representatives on the CMRS Board who shall serve through  
21 March 31, 2014, and a member from the first, third, fifth, and  
22 seventh congressional districts as provided herein. Following  
23 the March 31, 2014, expiration of the terms of the district  
24 representatives drawn from the CMRS Board, the Governor shall  
25 appoint a member recommended by the Association of 911

1 Districts from each of the second, fourth, and sixth  
2 congressional districts, it being the intent of this section  
3 that each of the seven district representatives on the board  
4 be from a different congressional district, as such districts  
5 exist on May 8, 2012.

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

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

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

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

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

3           "(d) For all terms expiring after June 1, 2014, the  
4 governmental entities or industry groups identified in  
5 subsection (a) shall recommend at least two different persons  
6 for each board position for which they are charged with making  
7 a recommendation, with the Governor appointing a member from  
8 among such recommended candidates. For all terms expiring  
9 after July 1, 2015, appointments made by the Governor shall be  
10 subject to confirmation by the Senate as provided in this  
11 subsection. Appointments made at times when the Senate is not  
12 in session shall be effective immediately ad interim and shall  
13 serve until the Senate acts on the appointment as provided  
14 herein. Any appointment made while the Senate is not in  
15 session shall be submitted to the Senate not later than the  
16 third legislative day following the reconvening of the  
17 Legislature. In the event the Senate fails or refuses to act  
18 on the appointment, the person whose name was submitted shall  
19 continue to serve until action is taken on the appointment by  
20 the Senate.

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

23           "(1) To develop a 911 State Plan. In fulfilling this  
24 duty, the 911 Board shall monitor trends in voice  
25 communications service technology and in enhanced 911 service

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

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

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

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

1 provide funds in accordance with these policies and procedures  
2 to the extent funds are available.

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

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

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

13 "(8) To adopt rules in accordance with the  
14 Administrative Procedure Act to implement this chapter; to  
15 establish the statewide 911 charge; and, in response to  
16 technological changes, apply, collect, and remit the statewide  
17 911 charge, without duplication, to the active service  
18 connections of other originating service providers that are  
19 technically capable of accessing a 911 system, subject to the  
20 provisions applicable to voice communications service  
21 providers under this chapter. Any proposed rule extending the  
22 application of the 911 charge beyond those voice communication  
23 services defined in paragraphs a. to c., inclusive, of  
24 subdivision (18) of Section 11-98-1, upon approval by the 911  
25 Board shall be submitted to the Permanent Oversight Committee

1 which, by an affirmative vote of six of its members, may  
2 disapprove the action. If not disapproved by the Permanent  
3 Oversight Committee within 15 days of submission, the proposed  
4 rule shall be deemed adopted by the 911 Board on the fifteenth  
5 day after submission and shall be certified to the Legislative  
6 Reference Service in accordance with the Administrative  
7 Procedure Act. This authority does not include the regulation  
8 of any 911 service, such as the establishment of technical  
9 standards.

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

12 "§11-98-5.

13 "(a) A single, monthly statewide 911 charge shall be  
14 imposed on each active voice communications service connection  
15 in Alabama that is technically capable of accessing a 911  
16 system. For each digital transmission link, including primary  
17 rate interface service or Digital Signal-1 (DS-1) level  
18 service, or equivalent, that can be channelized and split into  
19 23 or 24 voice-grade or data-grade channels for voice  
20 communications, a subscriber shall be assessed on the number  
21 of channels configured for or capable of accessing a 911  
22 system. If the number of such channels so configured is not  
23 readily determinable, the service charge per DS-1, or  
24 equivalent, shall be assessed on 23 voice communications  
25 service connections. The 911 Board shall also establish a

1 maximum number of wireline 911 charges to be imposed at a  
2 single subscriber location for bills rendered on or after  
3 January 1, 2015, following the same procedures and deadlines  
4 provided in this subsection for a subsequent adjustment to the  
5 initial statewide 911 charge, which shall not be counted  
6 against the number of permitted rate adjustments during such  
7 fiscal year. For CMRS providers, the statewide 911 charge  
8 shall be levied on each CMRS connection with a primary place  
9 of use in the State of Alabama. The statewide 911 charge is  
10 payable by the subscriber to the voice communications service  
11 provider. Except as otherwise provided in this chapter, the  
12 voice communications service provider shall list the statewide  
13 911 charge separately from other charges on the bill and the  
14 charge shall be collected according to the regular billing  
15 practice of the voice communications service provider. The  
16 statewide 911 charge collected under this section shall not be  
17 subject to taxes or charges levied on or by the voice  
18 communications service provider nor shall the charges and fees  
19 be considered revenue of the voice communications service  
20 provider for any purposes. Partial payments made by a  
21 subscriber are applied first to the amount owed for voice  
22 communications service. The 911 Board shall collect from each  
23 voice communications service provider the monthly statewide  
24 911 charges prescribed herein. The initial statewide 911  
25 charge shall be developed by the 911 Board at an amount

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

1 Oversight Commission establish a rate which reduces funding  
2 below that necessary to produce the baseline 911 revenues as  
3 established under this chapter. Failure of the Permanent  
4 Oversight Commission to reject the recommended statewide  
5 charge and specify an alternative charge within 30 days of  
6 submission shall result in the charge being deemed approved  
7 for implementation on October 1, 2013, without the need for  
8 further action. Should the Permanent Oversight Commission  
9 reject the recommended statewide 911 charge and specify an  
10 alternative rate, it shall specify the basis for its action to  
11 the board, which may, by a supermajority of 60 percent of a  
12 quorum of its members, reject the alternative charge in favor  
13 of its original recommended charge or a lower charge. The  
14 statewide 911 charge established by the 911 Board following  
15 such second review shall not be subject to further review by  
16 the Permanent Oversight Commission and shall take effect  
17 automatically on October 1, 2013. Failure of the 911 Board to  
18 reject or modify the alternative charge submitted by the  
19 Permanent Oversight Commission within 30 days of submission  
20 shall result in the alternative charge being deemed approved  
21 for implementation on October 1, 2013, without the need for  
22 further action.

23 "(b) A voice communications service provider shall  
24 remit the statewide 911 charge collected by it under this  
25 section to the 911 Board, utilizing such electronic or paper

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

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

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

1 any provision of this subsection to the contrary, in no event  
2 shall the revenues produced by the statewide 911 charge exceed  
3 the amounts deemed by the 911 Board to be necessary to satisfy  
4 the requirements of this chapter.

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

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

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB317

Senate 18-MAR-14

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 03-APR-14

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By: Senator Marsh