

1 SB317
2 157830-1
3 By Senators Marsh, Waggoner, Ward and Orr
4 RFD: Governmental Affairs
5 First Read: 06-FEB-14

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8 SYNOPSIS: This bill would expand the current
9 statewide E-911 Board from 13 to 15 members by
10 adding a representative of large business users and
11 a representative of private hospitals subject to
12 the 911 service charge. This bill would place a
13 limit on the number of 911 charges per account bill
14 rendered to 100 charges as of October 1, 2014, and
15 would clarify the application of the 911 charge for
16 users served by certain digital transmission links.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to E-911 services, to amend Sections
23 11-98-4.1 and 11-98-5, Code of Alabama 1975, by expanding the
24 existing statewide E-911 Board from 13 to 15 members by adding
25 a representative of large business users and a representative
26 of private hospitals subject to the 911 service charge; to
27 limit the number of 911 charges per account bill rendered to

1 100 charges effective October 1, 2014, and to clarify that for
2 each digital transmission link, including primary rate
3 interface service or equivalent Digital-Signal-1-level
4 service, that can be channelized and split into 23 or 24
5 voice-grade or data-grade channels for communications, a
6 subscriber shall be assessed on the number of channels
7 configured for or capable of accessing a 911 system.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§11-98-4.1.

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

1 "(b) The ~~13~~ 15 members of the 911 Board, each of
2 whom shall serve for a term of four years, shall be appointed
3 by 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 May 8, 2012.

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 "(5) One member recommended by the Alabama Hospital
5 Association representing private hospitals subject to the 911
6 service charge.

7 "(6) One member recommended by Manufacture Alabama
8 representing large business customers subject to the 911
9 service charge.

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

24 "(d) For all terms expiring after July 1, 2015,
25 appointments made by the Governor shall be subject to
26 confirmation by the Senate as provided in this subsection.
27 Appointments made at times when the Senate is not in session

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "§11-98-5.

22 "(a) A single, monthly statewide 911 charge shall be
23 imposed on each active voice communications service connection
24 in Alabama that is technically capable of accessing a 911
25 system. Effective October 1, 2014, the number of statewide 911
26 charges imposed under this chapter may not exceed a maximum of
27 100 voice communications service connections per account bill

1 rendered. For each digital transmission link, including
2 primary rate interface service or equivalent
3 Digital-Signal-1-level service, that can be channelized and
4 split into 23 or 24 voice grade or data grade channels for
5 communications, a subscriber shall be assessed on the number
6 of channels configured for or capable of accessing a 911
7 system. If the number of such channels so configured is not
8 readily determinable, the service charge shall be assessed on
9 23 voice communications service connections, subject to the
10 maximum of 100 voice communications service connections per
11 account bill rendered as set forth in this chapter. For CMRS
12 providers, the statewide 911 charge shall be levied on each
13 CMRS connection with a primary place of use in the State of
14 Alabama. The statewide 911 charge is payable by the subscriber
15 to the voice communications service provider. Except as
16 otherwise provided in this chapter, the voice communications
17 service provider shall list the statewide 911 charge
18 separately from other charges on the bill and the charge shall
19 be collected according to the regular billing practice of the
20 voice communications service provider. The statewide 911
21 charge collected under this section shall not be subject to
22 taxes or charges levied on or by the voice communications
23 service provider nor shall the charges and fees be considered
24 revenue of the voice communications service provider for any
25 purposes. Partial payments made by a subscriber are applied
26 first to the amount owed for voice communications service. The
27 911 Board shall collect from each voice communications service

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

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

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

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

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

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

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

25 "(d) A voice communications service provider has no
26 obligation to take any legal action to enforce the collection
27 of the statewide 911 charge billed to a subscriber. The 911

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

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

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

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