

ACT #2014- 431

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

2

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.

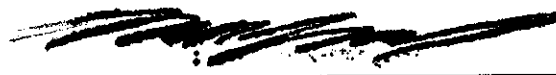
18 "(f) At any time after October 1, 2013, should the
19 911 Board determine that the revenues allocated to CMRS
20 providers under subdivision (7) of subsection (b) of Section
21 11-98-5.2 for reimbursement to CMRS providers exceed those
22 necessary to meet funding requirements, it may distribute any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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Kay Ivey

President and Presiding Officer of the Senate



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

House of Representatives
Passed: 03-APR-14

By: Senator Marsh

APPROVED April 10, 2014

TIME 7:42 a.m.

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2014-431
Bill Num...: S-317

Recv'd 04/10/14 09:07amSLF

SPONSOR

1 W. Woodard

CO-SPONSORS

2 W. Woodard

3 W. Woodard

4 W. Woodard

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____

26 _____

27 _____

28 _____

29 _____

30 _____

31 _____

32 _____

33 _____

34 _____

35 _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 317

years 31 nays 0 abstain 0

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

DATE: _____

RD 1 RFD _____

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee Commerce & Small Business acted upon by such committee session, and returned therefrom to the House with the recommendation that it Passed, w/amend(s) _____ w/sub _____ This 20th day of March, 2011

W. Woodard Chairpers

DATE: _____

RF _____

DATE: _____

RE-REFERRED RE-COMMITTED

Committee _____

I hereby certify that the Resolution required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 317

JEFF WOODARD
Clerk

FURTHER HOUSE ACTION (OVER)