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3 MARSH SUBSTITUTE FOR SB317
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8 SYNOPSIS: Existing law requires the Governor to
9 appoint statewide 911 Board members who are
10 recommended by various trade associations,
11 governmental entities, and industry groups.

12 This bill would allow the Governor to
13 appoint from multiple candidates recommended for
14 designated positions by certain trade associations,
15 governmental entities, and industry groups for all
16 terms expiring after June 1, 2014.

17 This bill would require the statewide 911
18 Board to establish the maximum number of wireline
19 911 charges imposed at a single subscriber location
20 for bills rendered on or after January 1, 2015, and
21 would clarify the definition of a subscriber and
22 the application of the 911 charge for users served
23 by certain digital service platforms.
24

25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 Relating to E-911 services; to amend Sections
3 11-98-1, 11-98-4.1, and 11-98-5, Code of Alabama 1975; to
4 clarify the definition of a subscriber; to allow the Governor
5 to appoint 911 Board members from multiple candidates
6 recommended for designated positions by certain trade
7 associations, governmental entities, and industry groups; to
8 require the statewide 911 Board to establish the maximum
9 number of wireline 911 charges imposed at a single subscriber
10 location; and to clarify and affirm the application of the 911
11 charge for users served by certain digital service platforms.
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§11-98-1.

16 "(a) As used in this chapter, the following words
17 and terms have the following meanings, unless the context
18 clearly indicates otherwise:

19 "(1) AUTOMATIC NUMBER IDENTIFICATION. An enhanced
20 911 service capability that enables the automatic display of
21 the 10-digit telephone number used to place a 911 call. The
22 term includes pseudo-automatic number identification, which
23 means an enhanced 911 service capability that enables
24 identification of the subscriber.

25 "(2) CMRS. Commercial mobile radio service under
26 Sections 3(27) and 332(d) of the Federal Telecommunications
27 Act of 1996, 47 U.S.C. §151 et seq., and Omnibus Budget

1 Reconciliation Act of 1993, Pub. L. 103-66, Aug. 10, 1993, 107
2 Stat. 312. The term includes the term wireless and service
3 provider by any wireless real time two-way voice communication
4 device, including radio-telephone communications used in
5 cellular telephone service, personal communication service, or
6 the functional or competitive equivalent of a radio-telephone
7 communications line used in cellular telephone service, a
8 personal communication service, or a network radio access
9 line. The term does not include service whose customers do not
10 have access to 911 or to an enhanced 911-like service, to a
11 communications channel suitable only for data transmission, to
12 a wireless roaming service or other non-local radio access
13 line service, or to a private telecommunications system.

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

17 "(4) CMRS PROVIDER. A person or entity that provides
18 CMRS.

19 "(5) CREATING AUTHORITY. The municipal governing
20 body of any municipality or the governing body of any county
21 that, by passage of a resolution or ordinance, creates a
22 district within its respective jurisdiction in accordance with
23 this chapter.

24 "(6) DISTRIBUTION FORMULA. The percentage of the
25 total state population residing in a district, compared to the
26 total state population residing in all districts statewide,

1 based upon the latest census data or estimates compiled by or
2 for the Alabama Department of Economic and Community Affairs.

3 "(7) DISTRICT. A communication district created
4 pursuant to this chapter.

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

20 "(9) FCC ORDER. The order of the Federal
21 Communications Commission, FCC Docket No. 94-102, adopted on
22 June 12, 1996, and released on July 26, 1996.

23 "(10) OTHER ORIGINATING SERVICE PROVIDER. An entity
24 other than a voice communication service provider that
25 delivers real-time communication between a person needing
26 assistance and an E-911 system.

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

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

8 "a. The residential street address or the primary
9 business street address of the customer.

10 "b. Within the licensed service areas of the CMRS
11 provider.

12 "(13) PUBLIC SAFETY AGENCY. An agency of the State
13 of Alabama, or a functional division of a political
14 subdivision, that provides fire fighting, rescue, natural or
15 man-caused disaster, or major emergency response, law
16 enforcement, ambulance, or emergency medical services.

17 "(14) STATEWIDE 911 BOARD or 911 BOARD. The
18 statewide 911 Board established pursuant to Section 11-98-4.1.

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

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

1 and city school boards, independent school boards, and all
2 educational institutions and agencies of the State of Alabama,
3 the counties within the state, or any incorporated
4 municipalities of the State of Alabama.

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

13 "(18) VOICE COMMUNICATIONS SERVICE. Any of the
14 following:

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

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

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

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

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

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

8 "§11-98-4.1.

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

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

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

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

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

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

26 "(c) For purposes of the initial board appointments,
27 (1) five members of the board shall be appointed for a

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

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

1 continue to serve until action is taken on the appointment by
2 the Senate.

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

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

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

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

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

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

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

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

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

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

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

15 "§11-98-5.

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

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

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

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

20 "(b) A voice communications service provider shall
21 remit the statewide 911 charge collected by it under this
22 section to the 911 Board, utilizing such electronic or paper
23 reporting forms that may be adopted by the 911 Board by rule.
24 The provider shall remit the collected charges by the end of
25 the calendar month following the month the provider received
26 the charges from its subscribers. A voice communications
27 service provider may deduct and retain from the statewide 911

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

11 "(c) Subject to succeeding provisions of this
12 subsection:

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

20 "(2) The 911 Board, not later than October 1 in the
21 year 2018 and each fifth year thereafter, shall adjust the 911
22 charge to produce an increase in the baseline 911 revenues
23 sufficient to increase the amount distributed to each district
24 under this chapter during the immediately preceding fiscal
25 year by an amount equal to the rate of growth, determined as a
26 percentage, in the Consumer Price Index for Urban Consumers
27 (CPI-U) for such five-year period. Once adjusted as provided

1 in this section, the resulting revenues shall become the
2 baseline 911 revenues until amended or adjusted under the
3 procedures established in this chapter.

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

22 "(d) A voice communications service provider has no
23 obligation to take any legal action to enforce the collection
24 of the statewide 911 charge billed to a subscriber. The 911
25 Board may initiate a collection action, and reasonable costs
26 and attorney's fees associated with that collection may be
27 assessed against the subscriber. A voice communications

1 service provider shall quarterly report to the 911 Board the
2 amount of the provider's uncollected service charges. The 911
3 Board may request, to the extent permitted by federal and
4 state privacy laws, the name, address, and telephone number of
5 a subscriber who refuses to pay the statewide 911 charge.

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

8 "(f) At any time after October 1, 2013, should the
9 911 Board determine that the revenues allocated to CMRS
10 providers under subdivision (7) of subsection (b) of Section
11 11-98-5.2 for reimbursement to CMRS providers exceed those
12 necessary to meet funding requirements, it may distribute any
13 excess revenues in accordance with subdivision (1) of
14 subsection (b) of Section 11-98-5.2."

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