To: MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Senator(s) Robertson

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2393

AN ACT TO REENACT SECTIONS 19-5-303, 19-5-313, 19-5-331
THROUGH 19-5-341, 19-5-359 AND 19-5-361, MISSISSIPPI CODE OF 1972,
WHICH PROVIDE FOR AN EMERGENCY TELEPHONE SERVICE CHARGE, CREATE A
COMMERCIAL MOBILE RADIO SERVICE BOARD AND PRESCRIBE ITS POWERS AND
DUTIES, PROVIDE FOR COLLECTION OF SERVICE CHARGES, REQUIRE
CONFIDENTIALITY OF PROPRIETARY INFORMATION AND REQUIRE THE
COMMERCIAL MOBILE RADIO SERVICE TO PROVIDE WIRELESS ENHANCED 911
SERVICE; TO AMEND SECTION 12, CHAPTER 536, LAWS OF 1993, AS
AMENDED BY SECTION 12, CHAPTER 531, LAWS OF 1998, TO EXTEND THE
REPEALER ON WIRELESS EMERGENCY TELEPHONE SERVICE; AND FOR RELATED
PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-5-303, Mississippi Code of 1972, is
reenacted as follows:

19-5-303. For purposes of Sections 19-5-301 through
19-5-317, the following words and terms shall have the following
meanings, unless the context clearly indicates otherwise:

(a) "Exchange access facilities" shall mean all lines
provided by the service supplier for the provision of local
exchange service as defined in existing general subscriber
services tariffs.

(b) "Tariff rate" shall mean the rate or rates billed
by a service supplier as stated in the service supplier's tariffs
and approved by the Public Service Commission, which represent the
service supplier's recurring charges for exchange access
facilities, exclusive of all taxes, fees, licenses or similar
charges whatsoever.

(c) "District" shall mean any communications district
created pursuant to Sections 19-5-301 et seq., or by local and
private act of the State of Mississippi.
(d) "Service supplier" shall mean any person providing exchange telephone service to any service user throughout the county.

(e) "Service user" shall mean any person, not otherwise exempt from taxation, who is provided exchange telephone service in the county or state.

(f) "E911" shall mean Enhanced Universal Emergency Number Service or Enhanced 911 Service, which is a telephone exchange communications service whereby a Public Safety Answering Point (PSAP) designated by the county or local communications district may receive telephone calls dialed to the telephone number 911. E911 Service includes lines and equipment necessary for the answering, transferring and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911. Enhanced 911 Service includes the displaying of the name, address and other pertinent caller information as may be supplied by the service supplier.

(g) "Basic 911" shall mean a telephone service terminated in designated Public Safety Answering Points accessible by the public through telephone calls dialed to the telephone number 911. Basic 911 is a voice service and does not display address or telephone number information.

(h) "Shared Tenant Services (STS)" shall mean any telephone service operation supplied by a party other than a regulated local exchange telephone service supplier for which a charge is levied. Such services shall include, but not be limited to, apartment building systems, hospital systems, office building systems and other systems where dial tone is derived from connection of tariffed telephone trunks or lines connected to a private branch exchange telephone system.

(i) "Private Branch Exchange (PBX)" shall mean any telephone service operation supplied by a party other than a regulated local exchange telephone service supplier for which a
charge is not levied. Such services are those where tariffed telephone trunks or lines are terminated into a central switch which is used to supply dial tone to telephones operating within that system.

(j) "Off-Premise Extension" shall mean any telephone connected to a private branch exchange or a shared tenant service which is in a different building or location from the main switching equipment and, therefore, has a different physical address.

(k) "Centrex" or "ESSX" shall mean any variety of services offered in connection with any tariffed telephone service in which switching services and other dialing features are provided by the regulated local exchange telephone service supplier.

(l) "Commercial mobile radio service" or "CMRS" shall mean commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 USCS Section 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communication service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communication service, or a network radio access line. The term does not include service whose customers do not have access to 911 or to a 911-like service, to a communication channel suitable only for data transmission, to a wireless roaming service or other nonlocal radio access line service, or to a private telecommunications system.

(m) "Telecommunicator" shall mean any person engaged in or employed as a telecommunications operator by any public safety, fire or emergency medical agency whose primary responsibility is
the receipt or processing of calls for emergency services provided
by public safety, fire or emergency medical agencies or the
dispatching of emergency services provided by public safety, fire
or emergency medical agencies and who receives or disseminates
information relative to emergency assistance by telephone or
radio.

(n) "Public Safety Answering Point (PSAP)" shall mean
any point of contact between the public and the emergency services
such as a 911 answering point or, in the absence of 911 emergency
telephone service, any other point of contact where emergency
telephone calls are routinely answered and dispatched or
transferred to another agency.

(o) "Local exchange telephone service" shall mean all
lines provided by a service supplier as defined in existing
general subscriber tariffs.

SECTION 2. Section 19-5-313, Mississippi Code of 1972, is
reenacted as follows:

19-5-313. (1) The board of supervisors may levy an
emergency telephone service charge in an amount not to exceed One
Dollar ($1.00) per residential telephone subscriber line per month
and Two Dollars ($2.00) per commercial telephone subscriber line
per month for exchange telephone service. Any emergency telephone
service charge shall have uniform application and shall be imposed
throughout the entirety of the district to the greatest extent
possible in conformity with availability of such service in any
area of the district. Those districts which exist on the date of
enactment of Chapter 539, Laws of 1993, shall convert to the
following structure for service charge levy: If the current
charge is five percent (5%) of the basic tariff service rate, the
new collection shall be Eighty Cents ($.80) per month per
residential subscriber line and One Dollar and Sixty Cents ($1.60)
per month per commercial subscriber line. The collections may be
adjusted as outlined in Chapter 539, Laws of 1993, and within the
limits set forth herein.

(2) If the proceeds generated by the emergency telephone
service charge exceed the amount of monies necessary to fund the
service, the board of supervisors may authorize such excess funds
to be expended by the county and the municipalities in the
counties to perform the duties and pay the costs relating to
identifying roads, highways and streets, as provided by Section
65-7-143. The board of supervisors shall determine how the funds
are to be distributed in the county and among municipalities in
the county for paying the costs relating to identifying roads,
highways and streets. The board of supervisors may temporarily
reduce the service charge rate or temporarily suspend the service
charge if the proceeds generated exceed the amount that is
necessary to fund the service and/or to pay costs relating to
identifying roads, highways and streets. Such excess funds may
also be used in the development of county or district
communications and paging systems when used primarily for the
alerting and dispatching of public safety entities and for other
administrative costs such as management personnel, maintenance
personnel and related building and operational requirements. Such
excess funds may be placed in a depreciation fund for emergency
and obsolescence replacement of equipment necessary for the
operation of the overall 911 emergency telephone and alerting
systems.

(3) No such service charge shall be imposed upon more than
twenty-five (25) exchange access facilities per person per
location. Trunks or service lines used to supply service to CMRS
providers shall not have a service charge levied against them.
Every billed service user shall be liable for any service charge
imposed under this section until it has been paid to the service
supplier. The duty of the service supplier to collect any such
service charge shall commence upon the date of its implementation,
which shall be specified in the resolution for the installation of
such service. Any such emergency telephone service charge shall
be added to and may be stated separately in the billing by the
service supplier to the service user.

(4) The service supplier shall have no obligation to take
any legal action to enforce the collection of any emergency
telephone service charge. However, the service supplier shall
annually provide the board of supervisors and board of
commissioners with a list of the amount uncollected, together with
the names and addresses of those service users who carry a balance
that can be determined by the service supplier to be nonpayment of
such service charge. The service charge shall be collected at the
same time as the tariff rate in accordance with the regular
billing practice of the service supplier. Good faith compliance
by the service supplier with this provision shall constitute a
complete defense to any legal action or claim which may result
from the service supplier's determination of nonpayment and/or the
identification of service users in connection therewith.

(5) The amounts collected by the service supplier
attributable to any emergency telephone service charge shall be
due the county treasury monthly. The amount of service charge
collected each month by the service supplier shall be remitted to
the county no later than sixty (60) days after the close of the
month. A return, in such form as the board of supervisors and the
service supplier agree upon, shall be filed with the county,
together with a remittance of the amount of service charge
collected payable to the county. The service supplier shall
maintain records of the amount of service charge collected for a
period of at least two (2) years from date of collection. The
board of supervisors and board of commissioners shall receive an
annual audit of the service supplier's books and records with
respect to the collection and remittance of the service charge.

From the gross receipts to be remitted to the county, the service
supplier shall be entitled to retain as an administrative fee, an
amount equal to one percent (1%) thereof. From and after March
10, 1987, the service charge is a county fee and is not subject to
any sales, use, franchise, income, excise or any other tax, fee or
assessment and shall not be considered revenue of the service
supplier for any purpose.

(6) In order to provide additional funding for the district,
the board of commissioners may receive federal, state, county or
municipal funds, as well as funds from private sources, and may
expend such funds for the purposes of Section 19-5-301 et seq.

SECTION 3. Section 19-5-331, Mississippi Code of 1972, is
reenacted as follows:

19-5-331. As used in Sections 19-5-331 through 19-5-341,
unless the context clearly indicates otherwise:

(a) The terms "board" and "CMRS Board" mean the
Commercial Mobile Radio Service Emergency Telephone Services
Board.

(b) The term "automatic number identification" or "ANI"
means an enhanced 911 service capability that enables the
automatic display of the ten-digit wireless telephone number used
to place a 911 call and includes "pseudo-automatic number
identification" or "pseudo-ANI," which means an enhanced 911
service capability that enables the automatic display of the
number of the cell site and an identification of the CMRS
provider.

(c) The term "commercial mobile radio service" or
"CMRS" means commercial mobile radio service under Sections 3(27)
and 332(d) of the Federal Telecommunications Act of 1996, 47 USCS
Section 151 et seq., and the Omnibus Budget Reconciliation Act of
1993, Pub. L. 103-66. The term includes the term "wireless" and
service provided by any wireless real time two-way voice
communication device, including radio-telephone communications
used in cellular telephone service, personal communication
service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communication service, specialized mobile radio service, or a network radio access line. The term does not include service whose customers do not have access to 911 or to a 911-like service, to a communication channel suitable only for data transmission, to a wireless roaming service or other nonlocal radio access line service, or to a private telecommunications system.

(d) The term "commercial mobile radio service provider" or "CMRS provider" or the plural thereof, as the context requires, means a person or entity who provides commercial mobile radio service or CMRS service.

(e) The term "CMRS connection" or the plural thereof, as the context requires, means each mobile handset telephone number assigned to a CMRS customer with a service address in the State of Mississippi.

(f) The term "CMRS Fund" means the Commercial Mobile Radio Service Fund required to be established and maintained pursuant to Section 19-5-333.

(g) The term "CMRS service charge" or the plural thereof, as the context requires, means the CMRS emergency telephone service charge levied and maintained pursuant to Section 19-5-333 and collected pursuant to Section 19-5-335.

(h) The term "distribution formula" means the formula specified in Section 19-5-333(c) by which monies generated from the CMRS service charge are distributed on a percentage basis to emergency communications districts and to the CMRS Fund.

(i) The term "ECD" means an emergency communications district created pursuant to Section 19-5-301, et seq., Mississippi Code of 1972, or by local and private act of the State of Mississippi.
(j) The term "enhanced 911," "E911," "enhanced E911 system" or "E911 system" means an emergency telephone system that provides the caller with emergency 911 system service, that directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, and that provides the capability for automatic number identification and other features that the Federal Communications Commission (FCC) may require in the future.

(k) The term "exchange access facility" means an "exchange access facility" as defined by Section 19-5-303, Mississippi Code of 1972.


(m) The term "service address" means the location address if the location address is known and accessible; however, if the location address is not known and accessible, the term shall mean the billing address.

(n) The term "service supplier" or the plural thereof, as the context requires, means a "service supplier" as defined by Section 19-5-303, Mississippi Code of 1972.

(o) The term "technical proprietary information" means technology descriptions, technical information or trade secrets and the actual or developmental costs thereof which are developed, produced or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers or agents.

SECTION 4. Section 19-5-333, Mississippi Code of 1972, is reenacted as follows:

19-5-333. (1) There is created a Commercial Mobile Radio Service (CMRS) Board, consisting of five (5) members. The members of the board shall be appointed as follows:

(a) Two (2) members designated by the Mississippi Association of CMRS Providers; and
(b) One (1) member elected, in the manner provided in this paragraph, from each Public Service Commission district, as such districts exist on April 8, 1998. Each emergency communications district established under Section 19-5-305 or by local and private act in the Southern District shall submit a nominee for the board member from the Southern District to the President of the Mississippi Chapter of the National Emergency Number Association, who shall elect the member to represent the Southern District. Each emergency communications district established under Section 19-5-305 or by local and private act in the Central District shall submit a nominee for the board member from the Central District to the President of the American Association of Public Safety Communication Officers, who shall elect the member to represent the Central District. Each emergency communications district established under Section 19-5-305 or by local and private act in the Northern District shall submit a nominee for the board member from the Northern District to the President of the Mississippi 911 Coordinators Association, who shall elect the member to represent the Northern District.

The initial terms of the board members shall be staggered as follows: the members selected under paragraph (a) shall serve a term of one (1) year; the member elected under paragraph (b) from the Northern District shall serve a term of two (2) years; the member elected under paragraph (b) from the Central District shall serve a term of three (3) years; and the member elected under paragraph (b) from the Southern District shall serve a term of one (1) year. After the expiration of the initial terms, the term for all members shall be two (2) years.

(2) The board shall have the following powers and duties:

(a) To collect and distribute a CMRS emergency telephone service charge on each CMRS customer that has a billing address within the state. The rate of such CMRS service charge...
shall be One Dollar ($1.00) per month per CMRS connection beginning on April 8, 1998. The CMRS service charge shall have uniform application and shall be imposed throughout the state. The board is hereby authorized to receive all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 19-5-335.

(b) To establish and maintain the CMRS Fund as an insured, interest-bearing account into which the board shall deposit all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 19-5-335. The revenues which are deposited into the CMRS Fund shall not be monies or property of the state and shall not be subject to appropriation by the Legislature.

(c) To establish a distribution formula by which the board will make disbursements of the CMRS service charge in the following amounts and in the following manner:

(i) Out of the funds collected by the board, thirty percent (30%) shall be deposited into the CMRS Fund, and shall be used to defray the administrative expenses of the board in accordance with Section 19-5-335(3) and to pay the actual costs incurred by such CMRS providers in complying with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing or maintaining all necessary data, hardware and software required in order to provide such service as well as the incremental costs of operating such service. Sworn invoices must be presented to the board in connection with any request for payment and approved by a majority vote of the board prior to any such disbursement, which approval shall not be withheld or delayed unreasonably. In no event shall any invoice for payment be approved for the payment of costs that
are not related to compliance with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

(ii) The remainder of all funds collected by the board, which shall not be less than seventy percent (70%) of the total funds collected by the board, shall be distributed by the board monthly based on the number of CMRS connections in each ECD for use in providing wireless E911 service, including capital improvements, and in their normal operations.

(d) To obtain from an independent, third-party auditor retained by the board annual reports to the board no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS Fund during the preceding fiscal year and all disbursements to ECDs during the preceding fiscal year. The board shall provide a copy of the annual reports to the Chairmen of the Public Utilities Committees of the House of Representatives and Senate.

(e) To conduct a cost study on or before October 1, 1999, and to adjust the distribution formula to reflect actual costs to be incurred by each CMRS provider in order to comply with Phase One of the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

(f) To promulgate such rules and regulations as may be necessary to effect the provisions of Sections 19-5-331 through 19-5-341.

(g) To make the determinations and disbursements as provided by Section 19-5-333(2)(c).

(3) The CMRS service charge provided in Section 19-5-333(2)(a) and the service charge provided in Section 19-5-357 to fund the training of public safety telecommunicators shall be
the only charges assessed to CMRS customers relating to emergency telephone services.

(4) The board shall serve without compensation; provided, however, that members of the board shall be entitled to be reimbursed for actual expenses and travel costs associated with their service in an amount not to exceed the reimbursement authorized for state officers and employees in Section 25-3-41, Mississippi Code of 1972.

SECTION 5. Section 19-5-335, Mississippi Code of 1972, is reenacted as follows:

19-5-335. (1) Each CMRS provider shall act as a collection agent for the CMRS Fund and shall, as part of the provider's normal monthly billing process, collect the CMRS service charges levied upon CMRS connections pursuant to Section 19-5-333(2)(a) from each CMRS connection to whom the billing provider provides CMRS service and shall, not later than thirty (30) days after the end of the calendar month in which such CMRS service charges are collected, remit to the board the net CMRS service charges so collected after deducting the fee authorized by subsection (2) of this section. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge.

(2) Each CMRS provider shall be entitled to deduct and retain from the CMRS service charges collected by such provider during each calendar month an amount not to exceed one percent (1%) of the gross aggregate amount of such CMRS service charges so collected as reimbursement for the costs incurred by such provider in collecting, handling and processing such CMRS service charges.

(3) The board shall be entitled to retain from the CMRS service charges collected during each calendar month an amount not to exceed two percent (2%) of the money allocated to the CMRS Fund as reimbursement for the costs incurred by the board in administering Sections 19-5-331 through 19-5-341 including, but
not limited to, retaining and paying the independent, third-party
auditor to review and disburse the cost recovery funds and to
prepare the reports contemplated by Sections 19-5-331 through
19-5-341.

SECTION 6. Section 19-5-337, Mississippi Code of 1972, is
reenacted as follows:

19-5-337. All technical proprietary information submitted to
the board or to the independent, third-party auditor as provided
by Section 19-5-333(2)(d) shall be retained by the board and such
auditor in confidence and shall be subject to review only by the
board. Further, notwithstanding any other provision of the law,
no technical proprietary information so submitted shall be subject
to subpoena or otherwise released to any person other than to the
submitting CMRS provider, the board and the aforesaid independent,
third-party auditor without the express permission of the
administrator and the submitting CMRS provider. General
information collected by the aforesaid independent, third-party
auditor shall only be released or published in aggregate amounts
which do not identify or allow identification of numbers of
subscribers of revenues attributable to an individual CMRS
provider.

SECTION 7. Section 19-5-339, Mississippi Code of 1972, is
reenacted as follows:

19-5-339. In accordance with the Federal Communication
Commission Order, no CMRS provider shall be required to provide
wireless enhanced 911 service until such time as (a) the provider
receives a request for such service from the administrator of a
Public Safety Answering Point (PSAP) that is capable of receiving
and utilizing the data elements associated with the service; (b)
funds are available pursuant to Section 19-5-333; and (c) the
local exchange carrier is able to support the wireless enhanced
911 system.
SECTION 8. Section 19-5-341, Mississippi Code of 1972, is reenacted as follows:

19-5-341. Wireless emergency telephone service shall not be used for personal use and shall be used solely for the use of communications by the public. Any person who knowingly uses or attempts to use wireless emergency telephone service for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use wireless emergency telephone service in an effort to avoid any CMRS charges, is guilty of a misdemeanor and shall be subject to a fine of not more than Five Hundred Dollars ($500.00) or imprisonment of not more than thirty (30) days in the county jail, or both such fine and imprisonment. If the value of the CMRS charge or service obtained in a manner prohibited by this section exceeds One Hundred Dollars ($100.00), the offense may be prosecuted as a felony and punishable by a fine of not more than Five Thousand Dollars ($5,000.00) and imprisonment of not more than three (3) years, or both such fine and imprisonment.

SECTION 9. Section 19-5-359, Mississippi Code of 1972, is reenacted as follows:

19-5-359. (1) Any service supplier operating within the State of Mississippi shall be required to provide access to the locally designated PSAP by dialing the three (3) digits "911" from any telephone subscriber line within such service area. Where technically available, each service supplier shall, at a county's request, provide "Enhanced 911" services. Where this capability does not technically exist, "Basic 911" shall be available as a minimum.

(2) From and after December 31, 1993, any person, corporation or entity operating a "shared tenant service" type of telephone system shall be required to provide as a minimum the location and telephone number information for each and every extension or user on such "shared tenant" system to the regulated local exchange telephone service provider where the service
provider can utilize such information in the delivery of "Enhanced
911" emergency telephone service. This information shall consist
of data in a format that is compatible with the service supplier’s
requirements in order to provide such location and telephone
number information automatically in the event a call to 911 is
placed from such a system. It shall be the responsibility of the
operator or provider of "STS" telephone services to maintain the
data pertaining to each extension operating on such system.

(3) Any CMRS providers operating within the State of
Mississippi shall be required to have all trunks or service lines
supplying all cellular sites and personal communications network
sites contain the word "cellular" in the service supplier listing
for each trunk or service line to facilitate operator
identification of cellular and PCN telephone calls placed to 911.

(4) Any service suppliers engaged in the offering or
operating of "Centrex" or "ESSX" telephone service within the
State of Mississippi shall cause the actual location of all
extensions operating in this service to be displayed at the PSAP
whenever a 911 call is placed from said extension. This feature
shall not be required in areas where Enhanced 911 is not in
operation but shall be required should such area upgrade to
Enhanced 911 service.

(5) Any local exchange telephone service suppliers offering
"quick-serve" or "soft" dial tone shall provide address location
information to the PSAP operating in the area where the
"quick-serve" or "soft" dial tone is in operation so that the PSAP
may have this address information displayed should a call to 911
be placed from such location. It shall be the responsibility of
the service supplier to determine in which emergency service
number area the "quick-serve" or "soft" dial tone is located.

(6) Any service suppliers operating within the State of
Mississippi and providing Enhanced 911 telephone service shall
have a reasonable time period, not to exceed five (5) years, to
comply with data and operational standards as they are set forth by the National Emergency Number Association. This time period shall apply to data format, equipment supplied for PSAP use and for the length of time required for data updates relating to service user address information, emergency service number updates and other data updates as may be required.

SECTION 10. Section 19-5-361, Mississippi Code of 1972, is reenacted as follows:

19-5-361. Any Emergency 911 telephone service supplier and Emergency 911 CMRS provider operating within the State of Mississippi, its employees, directors, officers, agents and subcontractors, shall be entitled to receive the limitations of liability as provided to the state, or any agency or local government of the state, pursuant to Section 11-46-15, Mississippi Code of 1972.

SECTION 11. Section 12, Chapter 536, Laws of 1993, as amended by Section 12, Chapter 531, Laws of 1998, is amended as follows:

Section 12. This act shall stand repealed from and after July 1, 2002.

SECTION 12. This act shall take effect and be in force from and after July 1, 2001.