

By: Senator(s) Hewes (By Request), Dawkins, Cuevas, Lee (47th), Moffatt, Albritton, Gollott

To: Public Utilities

SENATE BILL NO. 2458

1 AN ACT TO AMEND SECTION 19-5-305, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW MULTIPLE COUNTIES TO FORM A MULTI-JURISDICTIONAL  
3 EMERGENCY COMMUNICATIONS DISTRICT; TO AMEND SECTION 19-5-307,  
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF SUPERVISORS TO  
5 REPLACE MEMBERS OF THE BOARD OF COMMISSIONERS BEFORE THE  
6 EXPIRATION OF THEIR TERMS; TO AMEND SECTION 19-5-313, MISSISSIPPI  
7 CODE OF 1972, TO INCREASE THE MAXIMUM EMERGENCY TELEPHONE SERVICE  
8 CHARGE WHICH MAY BE LEVIED BY THE BOARD OF SUPERVISORS; TO AMEND  
9 SECTION 19-5-333, MISSISSIPPI CODE OF 1972, TO INCREASE THE CMRS  
10 EMERGENCY TELEPHONE SERVICE CHARGE COLLECTED BY THE COMMERCIAL  
11 MOBILE RADIO SERVICE BOARD; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 19-5-305, Mississippi Code of 1972, is  
14 amended as follows:

15 19-5-305. The board of supervisors of each county may  
16 create, by order duly adopted and entered on its minutes, an  
17 emergency communications district composed of all of the territory  
18 within the county. Multiple counties may join to form a  
19 multi-jurisdictional emergency communications district. Single  
20 county and multicounty emergency communications districts may  
21 coexist. The duties and responsibilities for governing the  
22 multicounty district may be shared by the consolidated multicounty  
23 district along with the single county districts located therein.

24 **SECTION 2.** Section 19-5-307, Mississippi Code of 1972, is  
25 amended as follows:

26 19-5-307. (1) When any district is created, the board of  
27 supervisors of the county, or counties in the event of a  
28 multicounty district creating such district may appoint a board of  
29 commissioners composed of seven (7) members \* \* \*, and shall fix  
30 the domicile of the board at any point within the district. The  
31 members of the board shall be qualified electors of the district,

32 two (2) of whom shall be appointed for terms of two (2) years,  
33 three (3) for terms of three (3) years, and two (2) for terms of  
34 four (4) years, dating from the date of the adoption of the  
35 ordinance creating the district. Thereafter, all appointments of  
36 the members shall be for terms of four (4) years. The board of  
37 supervisors may also replace members of the board of commissioners  
38 before the expiration of their terms.

39 (2) The board of commissioners shall have complete and sole  
40 authority to appoint a chairman and any other officers it may deem  
41 necessary from among the membership of the board of commissioners.

42 (3) A majority of the board of commissioners membership  
43 shall constitute a quorum and all official action of the board of  
44 commissioners shall require a quorum.

45 (4) The duties of the board of commissioners shall be to  
46 govern the affairs of the emergency communications district.  
47 Service suppliers shall be accountable to the board of  
48 commissioners with regard to providing Basic 911 and E911 service  
49 and for collecting and remitting emergency telephone service  
50 charge. Commercial mobile radio service (CMRS) providers shall be  
51 accountable to the CMRS Board and the emergency communications  
52 district board of commissioners with regard to providing Basic 911  
53 and E911 service and for collecting and remitting CMRS service  
54 charges as defined in Section 19-5-331 et seq. The commission  
55 shall have the authority to promulgate rules and regulations to  
56 carry out its duties. The board of commissioners shall have  
57 authority to employ such employees, experts and consultants as it  
58 may deem necessary to assist the board of commissioners in the  
59 discharge of its responsibilities to the extent that funds are  
60 made available.

61 (5) In lieu of appointing a board of commissioners, the  
62 board of supervisors of the county may serve as the board of  
63 commissioners of the district, in which case it shall assume all

64 the powers and duties of the board of commissioners as provided in  
65 Section 19-5-301 et seq.

66 (6) All emergency communications districts shall purchase,  
67 lease or lease-purchase equipment used to comply with the FCC  
68 Order, as defined in Section 19-5-333, from a products and  
69 equipment list maintained by the Mississippi Department of  
70 Information Technology Services; however, items not available from  
71 the list, or items which may be purchased at a lower price, shall  
72 be purchased in accordance with the Public Purchasing Law (Section  
73 31-7-13).

74 (7) In the event that emergency communications districts  
75 have excess telecommunications and/or data transmission capacity  
76 after the needs of the public safety entities of the county are  
77 met, they may allow other public safety and nonpublic safety  
78 entities, including private industry, to utilize the  
79 telecommunications and/or data transmission services of the  
80 district. The district may charge reasonable fees to cover the  
81 cost of system maintenance and provision of these services  
82 including service utilization fees. However, the  
83 telecommunications and/or data transmission requirements of county  
84 and city public safety agencies (police, fire, EMS and emergency  
85 management), shall take precedent before any excess capacity  
86 utilization is authorized.

87 **SECTION 3.** Section 19-5-313, Mississippi Code of 1972, is  
88 amended as follows:

89 19-5-313. (1) The board of supervisors may levy an  
90 emergency telephone service charge in an amount not to exceed Two  
91 Dollars (\$2.00) per residential telephone subscriber line per  
92 month and Four Dollars (\$4.00) per commercial telephone subscriber  
93 line per month for exchange telephone service. Any emergency  
94 telephone service charge shall have uniform application and shall  
95 be imposed throughout the entirety of the district to the greatest  
96 extent possible in conformity with availability of such service in

97 any area of the district. Those districts which exist on the date  
98 of enactment of Chapter 539, Laws of 1993, shall convert to the  
99 following structure for service charge levy: If the current  
100 charge is five percent (5%) of the basic tariff service rate, the  
101 new collection shall be Eighty Cents (\$.80) per month per  
102 residential subscriber line and One Dollar and Sixty Cents (\$1.60)  
103 per month per commercial subscriber line. The collections may be  
104 adjusted as outlined in Chapter 539, Laws of 1993, and within the  
105 limits set forth herein.

106 (2) Proceeds generated by the emergency telephone service  
107 charge shall be used to fund the 911 service which may include but  
108 is not limited to the following: providing equipment, facilities  
109 and personnel required for a citizen to request and receive  
110 emergency aid; providing hardware and wireless telecommunications  
111 and data transmission services for public safety agencies, i.e.,  
112 police, fire service, emergency medical service, and emergency  
113 management; and for other administrative costs such as management  
114 personnel, maintenance personnel, and related building and  
115 operational requirements. City, county and other governmental  
116 jurisdictions may enter into agreements with emergency  
117 communications districts to provide these services. Funds may be  
118 placed in a depreciation fund for emergency and obsolescence  
119 replacement of equipment necessary for the operation of the  
120 overall 911 service. If the proceeds generated by the emergency  
121 telephone service charge exceed the amount of monies necessary to  
122 fund the service, the board of supervisors may authorize such  
123 excess funds to be expended by the county and the municipalities  
124 in the counties to perform the duties and pay the costs relating  
125 to identifying roads, highways and streets, as provided by Section  
126 65-7-143. The board of supervisors shall determine how the funds  
127 are to be distributed in the county and among municipalities in  
128 the county for paying the costs relating to identifying roads,  
129 highways and streets. The board of supervisors may temporarily

130 reduce the service charge rate or temporarily suspend the service  
131 charge if the proceeds generated exceed the amount that is  
132 necessary to fund the service and/or to pay costs relating to  
133 identifying roads, highways and streets. Such excess funds may  
134 also be used in the development of county or district  
135 communications and paging systems when used primarily for the  
136 alerting and dispatching of public safety entities and for other  
137 administrative costs such as management personnel, maintenance  
138 personnel and related building and operational requirements. Such  
139 excess funds may be placed in a depreciation fund for emergency  
140 and obsolescence replacement of equipment necessary for the  
141 operation of the overall 911 emergency telephone and alerting  
142 systems.

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

155 (4) The service supplier shall have no obligation to take  
156 any legal action to enforce the collection of any emergency  
157 telephone service charge. However, the service supplier shall  
158 annually provide the board of supervisors and board of  
159 commissioners with a list of the amount uncollected, together with  
160 the names and addresses of those service users who carry a balance  
161 that can be determined by the service supplier to be nonpayment of  
162 such service charge. The service charge shall be collected at the

163 same time as the tariff rate in accordance with the regular  
164 billing practice of the service supplier. Good faith compliance  
165 by the service supplier with this provision shall constitute a  
166 complete defense to any legal action or claim which may result  
167 from the service supplier's determination of nonpayment and/or the  
168 identification of service users in connection therewith.

169 (5) The amounts collected by the service supplier  
170 attributable to any emergency telephone service charge shall be  
171 due the county treasury monthly. The amount of service charge  
172 collected each month by the service supplier shall be remitted to  
173 the county no later than sixty (60) days after the close of the  
174 month. A return, in such form as the board of supervisors and the  
175 service supplier agree upon, shall be filed with the county,  
176 together with a remittance of the amount of service charge  
177 collected payable to the county. The service supplier shall  
178 maintain records of the amount of service charge collected for a  
179 period of at least two (2) years from date of collection. The  
180 board of supervisors and board of commissioners shall receive an  
181 annual audit of the service supplier's books and records with  
182 respect to the collection and remittance of the service charge.  
183 From the gross receipts to be remitted to the county, the service  
184 supplier shall be entitled to retain as an administrative fee, an  
185 amount equal to one percent (1%) thereof. From and after March  
186 10, 1987, the service charge is a county fee and is not subject to  
187 any sales, use, franchise, income, excise or any other tax, fee or  
188 assessment and shall not be considered revenue of the service  
189 supplier for any purpose.

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

194 **SECTION 4.** Section 19-5-333, Mississippi Code of 1972, is  
195 amended as follows:

196           19-5-333. (1) There is created a Commercial Mobile Radio  
197 Service (CMRS) Board, consisting of seven (7) members to be  
198 appointed by the Governor with the advice and consent of the  
199 Senate. The members of the board shall be appointed as follows:

200           (a) One (1) member from the Northern Public Service  
201 Commission District selected from two (2) nominees submitted to  
202 the Governor by the Mississippi 911 Coordinators Association;

203           (b) One (1) member from the Central Public Service  
204 Commission District selected from two (2) nominees submitted to  
205 the Governor by the Mississippi Chapter of the Association of  
206 Public Safety Communication Officers;

207           (c) One (1) member from the Southern Public Service  
208 Commission District selected from two (2) nominees submitted to  
209 the Governor by the National Emergency Numbering Association;

210           (d) Two (2) members who are wireless provider  
211 representatives;

212           (e) One (1) member who is a consumer representing the  
213 state at large with no affiliation to the three (3) trade  
214 associations or the wireless providers; and

215           (f) One (1) member who is a member of the Mississippi  
216 Law Enforcement Officers Association selected from two (2)  
217 nominees submitted to the Governor by the association.

218           The initial terms of the board members, as appointed after  
219 July 1, 2002, shall be staggered as follows: the members  
220 appointed under paragraph (d) shall serve a term of two (2) years;  
221 the member appointed under paragraph (e) shall serve a term of one  
222 (1) year. After the expiration of the initial terms, the term for  
223 all members shall be four (4) years.

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

225           (a) To collect and distribute a CMRS emergency  
226 telephone service charge on each CMRS customer whose place of  
227 primary use is within the state. The rate of such CMRS service  
228 charge shall be Two Dollars (\$2.00) per month per CMRS connection.

229 The CMRS service charge shall have uniform application and shall  
230 be imposed throughout the state. The board is authorized to  
231 receive all revenues derived from the CMRS service charge levied  
232 on CMRS connections in the state and collected pursuant to Section  
233 19-5-335.

234 (b) To establish and maintain the CMRS Fund as an  
235 insured, interest-bearing account into which the board shall  
236 deposit all revenues derived from the CMRS service charge levied  
237 on CMRS connections in the state and collected pursuant to Section  
238 19-5-335. The revenues which are deposited into the CMRS Fund  
239 shall not be monies or property of the state and shall not be  
240 subject to appropriation by the Legislature. Interest derived  
241 from the CMRS Fund shall be divided equally to pay reasonable  
242 costs incurred by providers in compliance with the requirements of  
243 Sections 19-5-331 through 19-5-341 and to compensate those  
244 persons, parties or firms employed by the CMRS Board as  
245 contemplated in paragraph (d) of this subsection. The interest  
246 income is not subject to the two percent (2%) cap on  
247 administrative spending established in Section 19-5-335(3).

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

251 (i) Out of the funds collected by the board,  
252 thirty percent (30%) shall be deposited into the CMRS Fund, and  
253 shall be used to defray the administrative expenses of the board  
254 in accordance with Section 19-5-335(3) and to pay the actual costs  
255 incurred by such CMRS providers in complying with the wireless  
256 E911 service requirements established by the FCC Order and any  
257 rules and regulations which are or may be adopted by the FCC  
258 pursuant to the FCC Order, including, but not limited to, costs  
259 and expenses incurred for designing, upgrading, purchasing,  
260 leasing, programming, installing, testing or maintaining all  
261 necessary data, hardware and software required in order to provide



262 such service as well as the incremental costs of operating such  
263 service. Sworn invoices must be presented to the board in  
264 connection with any request for payment and approved by a majority  
265 vote of the board prior to any such disbursement, which approval  
266 shall not be withheld or delayed unreasonably. In no event shall  
267 any invoice for payment be approved for the payment of costs that  
268 are not related to compliance with the wireless E911 service  
269 requirements established by the FCC Order and any rules and  
270 regulations which are or may be adopted by the FCC pursuant to the  
271 FCC Order, and any rules and regulations which may be adopted by  
272 the FCC with respect to implementation of wireless E911 services.

273 (ii) The remainder of all funds collected by the  
274 board, which shall not be less than seventy percent (70%) of the  
275 total funds collected by the board, shall be distributed by the  
276 board monthly based on the number of CMRS connections in each ECD  
277 for use in providing wireless E911 service, including capital  
278 improvements, and in their normal operations. For purposes of  
279 distributing the funds to each ECD, every CMRS provider shall  
280 identify to the CMRS Board the ECD to which funds should be  
281 remitted based on zip code plus four (4) designation, as required  
282 by the federal Uniform Sourcing Act.

283 An ECD board that has within its jurisdiction zip code  
284 designations that do not adhere to county lines shall assist CMRS  
285 providers in determining the appropriate county to which funds  
286 should be distributed.

287 (d) To contract for the services of accountants,  
288 attorneys, consultants, engineers and any other persons, firms or  
289 parties the board deems necessary to effectuate the purposes of  
290 Sections 19-5-331 through 19-5-341.

291 (e) To obtain from an independent, third-party auditor  
292 retained by the board annual reports to the board no later than  
293 sixty (60) days after the close of each fiscal year, which shall  
294 provide an accounting for all CMRS service charges deposited into

295 the CMRS Fund during the preceding fiscal year and all  
296 disbursements to ECDs during the preceding fiscal year. The board  
297 shall provide a copy of the annual reports to the Chairmen of the  
298 Public Utilities Committees of the House of Representatives and  
299 Senate.

300 (f) To retain an independent, third-party accountant  
301 who shall audit CMRS providers at the discretion of the CMRS Board  
302 to verify the accuracy of each CMRS providers' service charge  
303 collection. The information obtained by the audits shall be used  
304 solely for the purpose of verifying that CMRS providers accurately  
305 are collecting and remitting the CMRS service charge and may be  
306 used for any legal action initiated by the board against CMRS  
307 providers.

308 (g) To levy interest charges at the legal rate of  
309 interest established in Section 75-17-1 on any amount due and  
310 outstanding from any CMRS provider who fails to remit service  
311 charges in accordance with Section 19-5-335(1).

312 (h) To promulgate such rules and regulations as may be  
313 necessary to effect the provisions of Sections 19-5-331 through  
314 19-5-341.

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

317 (j) To maintain a registration database of all CMRS  
318 providers and to impose an administrative fine on any provider  
319 that fails to comply with the registration requirements in Section  
320 19-5-335.

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

326 (4) The board shall serve without compensation; however,  
327 members of the board shall be entitled to be reimbursed for actual

328 expenses and travel costs associated with their service in an  
329 amount not to exceed the reimbursement authorized for state  
330 officers and employees in Section 25-3-41, Mississippi Code of  
331 1972.

332 (5) It is the Legislature's intent to ensure that the State  
333 of Mississippi shall be Phase I compliant by July 1, 2005. For  
334 purposes of this subsection, Phase I compliant means the mandate  
335 by the FCC that requires any carrier when responding to a PSAP to  
336 define and deliver data related to the cell site location and the  
337 caller's call-back number.

338 **SECTION 5.** This act shall take effect and be in force from  
339 and after July 1, 2004.