

By: Senator(s) Simmons (12th)

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2354

1 AN ACT TO AMEND REENACTED SECTION 19-5-333, MISSISSIPPI CODE
 2 OF 1972, TO REQUIRE THE CMRS BOARD TO ADJUST THE CMRS SERVICE
 3 CHARGE ON OCTOBER 1, 2024, AND EVERY FIFTH YEAR THEREAFTER; TO
 4 REQUIRE THAT SUCH ADJUSTED CMRS SERVICE CHARGE SHALL BECOME THE
 5 NEW BASELINE AMOUNT FOR DETERMINING ANY FUTURE INCREASE, AND TO
 6 REQUIRE THE CMRS BOARD TO NOTIFY CMRS PROVIDERS OF ANY INCREASE
 7 NOT LESS THAN 60 DAYS PRIOR TO ANY EFFECTIVE DATE OF ADJUSTMENT;
 8 TO REPEAL SECTION 19-5-371, MISSISSIPPI CODE OF 1972, WHICH
 9 REPEALS CERTAIN CODE SECTIONS CONCERNING EMERGENCY TELEPHONE
 10 SERVICE, ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE, AND
 11 EMERGENCY TELECOMMUNICATIONS; TO BRING FORWARD SECTIONS 19-5-331,
 12 19-5-335, 19-5-337, 19-5-339 AND 19-5-341, MISSISSIPPI CODE OF
 13 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
 14 PURPOSES.

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

16 **SECTION 1.** Section 19-5-333, Mississippi Code of 1972, is
 17 amended as follows:

18 19-5-333. (1) There is created a Commercial Mobile Radio
 19 Service (CMRS) Board, consisting of eight (8) members to be
 20 appointed by the Governor with the advice and consent of the
 21 Senate. The members of the board shall be appointed as follows:

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



25 (b) One (1) member from the Central Public Service
26 Commission District selected from two (2) nominees submitted to
27 the Governor by the Mississippi Chapter of the Association of
28 Public Safety Communication Officers;

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

32 (d) Two (2) members who are wireless provider
33 representatives;

34 (e) One (1) member who is a consumer representing the
35 state at large with no affiliation to the three (3) trade
36 associations or the wireless providers;

37 (f) One (1) member who is a member of the Mississippi
38 Law Enforcement Officers Association selected from two (2)
39 nominees submitted to the Governor by the association; and

40 (g) One (1) member who is a member of the Mississippi
41 Association of Supervisors selected from two (2) nominees
42 submitted to the Governor by the association.

43 The initial terms of the board members, as appointed after
44 July 1, 2002, shall be staggered as follows: The members
45 appointed under paragraph (d) shall serve a term of two (2) years;
46 the member appointed under paragraph (e) shall serve a term of one
47 (1) year. After the expiration of the initial terms, the term for
48 all members shall be four (4) years.

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



50 (a) To collect and distribute a CMRS emergency
51 telephone service charge on each CMRS customer whose place of
52 primary use is within the state. The rate of such CMRS service
53 charge shall be One Dollar (\$1.00) per month per CMRS connection.
54 In the case of prepaid wireless service, the rate and methodology
55 for collecting and remitting the 911 charge is governed by Section
56 19-5-343. The CMRS service charge shall have uniform application
57 and shall be imposed throughout the state. The board is
58 authorized to receive all revenues derived from the CMRS service
59 charge levied on CMRS connections in the state and collected
60 pursuant to Section 19-5-335.

61 (b) To establish and maintain the CMRS Fund as an
62 insured, interest-bearing account into which the board shall
63 deposit all revenues derived from the CMRS service charge levied
64 on CMRS connections in the state and collected pursuant to Section
65 19-5-335. The revenues which are deposited into the CMRS Fund
66 shall not be monies or property of the state and shall not be
67 subject to appropriation by the Legislature. Interest derived
68 from the CMRS Fund shall be divided equally to pay reasonable
69 costs incurred by providers in compliance with the requirements of
70 Sections 19-5-331 through 19-5-341 and to compensate those
71 persons, parties or firms employed by the CMRS Board as
72 contemplated in paragraph (d) of this subsection. The interest
73 income is not subject to the two percent (2%) cap on
74 administrative spending established in Section 19-5-335(3).



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

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



100 (ii) The remainder of all funds collected by the
101 board, which shall not be less than seventy percent (70%) of the
102 total funds collected by the board, shall be distributed by the
103 board monthly based on the number of CMRS connections in each ECD
104 for use in providing wireless E911 service, including capital
105 improvements, and in their normal operations. For purposes of
106 distributing the funds to each ECD, every CMRS provider shall
107 identify to the CMRS Board the ECD to which funds should be
108 remitted based on zip code plus four (4) designation, as required
109 by the federal Uniform Sourcing Act.

110 An ECD board that has within its jurisdiction zip code
111 designations that do not adhere to county lines shall assist CMRS
112 providers in determining the appropriate county to which funds
113 should be distributed.

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

118 (e) To obtain from an independent, third-party auditor
119 retained by the board annual reports to the board no later than
120 sixty (60) days after the close of each fiscal year, which shall
121 provide an accounting for all CMRS service charges deposited into
122 the CMRS Fund during the preceding fiscal year and all
123 disbursements to ECDs during the preceding fiscal year. The board
124 shall provide a copy of the annual reports to the Chairmen of the



125 Public Utilities Committees of the House of Representatives and
126 Senate.

127 (f) To retain an independent, third-party accountant
128 who shall audit CMRS providers at the discretion of the CMRS Board
129 to verify the accuracy of each CMRS providers' service charge
130 collection. The information obtained by the audits shall be used
131 solely for the purpose of verifying that CMRS providers accurately
132 are collecting and remitting the CMRS service charge and may be
133 used for any legal action initiated by the board against CMRS
134 providers.

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

139 (h) To promulgate such rules and regulations as may be
140 necessary to effect the provisions of Sections 19-5-331 through
141 19-5-341.

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

144 (j) To maintain a registration database of all CMRS
145 providers and to impose an administrative fine on any provider
146 that fails to comply with the registration requirements in Section
147 19-5-335.

148 (k) The CMRS Board, on October 1, 2024, and each fifth
149 year thereafter, shall adjust the CMRS service charge provided in



150 paragraph (a) of this subsection and Section 19-5-343(2) (a) to
151 produce an increase in such amount equal to the rate of growth,
152 determined as a percentage, in the Consumer Price Index for All
153 Urban Consumers (CPI-U) for such five-year period. Once adjusted
154 pursuant to this subsection, the resulting service charge shall be
155 the baseline amount for purposes of determining any future
156 increase. The CMRS Board, not less than sixty (60) days prior to
157 the effective date of any adjustments to the CMRS service charge
158 pursuant to this subsection, shall notify each CMRS provider of
159 any such increase.

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

165 (4) The board shall serve without compensation; however,
166 members of the board shall be entitled to be reimbursed for actual
167 expenses and travel costs associated with their service in an
168 amount not to exceed the reimbursement authorized for state
169 officers and employees in Section 25-3-41, Mississippi Code of
170 1972.

171 (5) It is the Legislature's intent to ensure that the State
172 of Mississippi shall be Phase I compliant by July 1, 2005. For
173 purposes of this subsection, Phase I compliant means the mandate
174 by the FCC that requires any carrier when responding to a PSAP to



175 define and deliver data related to the cell site location and the
176 caller's call-back number.

177 **SECTION 2.** Section 19-5-371, Mississippi Code of 1972, which
178 names a date of repeal for Sections 19-5-303, 19-5-313, 19-5-319,
179 19-5-331, 19-5-333, 19-5-337, 19-5-339, 19-5-341, 19-5-353,
180 19-5-357, 19-5-359 and 19-5-361, Mississippi Code of 1972,
181 concerning emergency telephone service, enhanced wireless
182 emergency telephone service, and emergency telecommunications, is
183 hereby repealed.

184 **SECTION 3.** Section 19-5-331, Mississippi Code of 1972, is
185 brought forward as follows:

186 19-5-331. As used in Sections 19-5-331 through 19-5-341, the
187 following words and phrases have the meanings ascribed in this
188 section unless the context clearly indicates otherwise:

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

192 (b) The term "automatic number identification" or "ANI"
193 means an Enhanced 911 Service capability that enables the
194 automatic display of the ten-digit wireless telephone number used
195 to place a 911 call and includes "pseudo-automatic number
196 identification" or "pseudo-ANI," which means an Enhanced 911
197 Service capability that enables the automatic display of the
198 number of the cell site and an identification of the CMRS
199 provider.



200 (c) The term "commercial mobile radio service" or
201 "CMRS" means commercial mobile radio service under Sections 3(27)
202 and 332(d) of the Federal Telecommunications Act of 1996, 47 USCS
203 Section 151 et seq., and the Omnibus Budget Reconciliation Act of
204 1993, Public Law 103-66. The term includes the term "wireless"
205 and service provided by any wireless real time two-way voice
206 communication device, including radio-telephone communications
207 used in cellular telephone service, personal communication
208 service, or the functional or competitive equivalent of a
209 radio-telephone communications line used in cellular telephone
210 service, a personal communication service, specialized mobile
211 radio service, or a network radio access line. The term does not
212 include service whose customers do not have access to 911 or to a
213 911-like service, to a communication channel suitable only for
214 data transmission, to a wireless roaming service or other nonlocal
215 radio access line service, or to a private telecommunications
216 system.

217 (d) The term "commercial mobile radio service provider"
218 or "CMRS provider" means a person or entity who provides
219 commercial mobile radio service or CMRS service.

220 (e) The term "CMRS connection" means each mobile
221 handset telephone number assigned to a CMRS customer with a place
222 of primary use in the State of Mississippi.



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

226 (g) The term "CMRS service charge" means the CMRS
227 emergency telephone service charge levied and maintained pursuant
228 to Section 19-5-333 and collected pursuant to Section 19-5-335.

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

233 (i) The term "ECD" means an emergency communications
234 district created pursuant to Section 19-5-301 et seq., or by local
235 and private act of the State of Mississippi.

236 (j) The term "Enhanced 911," "E911," "Enhanced E911
237 system" or "E911 system" means an emergency telephone system that
238 provides the caller with emergency 911 system service, that
239 directs 911 calls to appropriate public safety answering points by
240 selective routing based on the geographical location from which
241 the call originated, and that provides the capability for
242 automatic number identification and other features that the
243 Federal Communications Commission (FCC) may require in the future.

244 (k) The term "exchange access facility" means an
245 "exchange access facility" as defined by Section 19-5-303.

246 (l) The term "FCC Order" means Federal Communications
247 Commission orders, rules and regulations issued with respect to



248 implementation of Basic 911 or Enhanced 911 and other emergency
249 communication services.

250 (m) The term "place of primary use" means the street
251 address representative of where the customer's use of mobile
252 telecommunications services primarily occurs, which must be either
253 the residential street address or the primary business street
254 address of the customer.

255 (n) The term "service supplier" means a "service
256 supplier" as defined by Section 19-5-303.

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

262 **SECTION 4.** Section 19-5-335, Mississippi Code of 1972, is
263 brought forward as follows:

264 19-5-335. (1) Each CMRS provider shall act as a collection
265 agent for the CMRS Fund and shall, as part of the provider's
266 normal monthly billing process, collect the CMRS service charges
267 levied upon CMRS connections pursuant to Section 19-5-333(2) (a)
268 from each CMRS connection to whom the billing provider provides
269 CMRS service and shall, not later than thirty (30) days after the
270 end of the calendar month in which such CMRS service charges are
271 collected, remit to the board the net CMRS service charges so
272 collected after deducting the fee authorized by subsection (2) of



273 this section. Each billing provider shall list the CMRS service
274 charge as a separate entry on each bill which includes a CMRS
275 service charge.

276 (2) Each CMRS provider shall be entitled to deduct and
277 retain from the CMRS service charges collected by such provider
278 during each calendar month an amount not to exceed one percent
279 (1%) of the gross aggregate amount of such CMRS service charges so
280 collected as reimbursement for the costs incurred by such provider
281 in collecting, handling and processing such CMRS service charges.

282 (3) The board shall be entitled to retain from the CMRS
283 service charges collected during each calendar month an amount not
284 to exceed two percent (2%) of the money allocated to the CMRS Fund
285 as reimbursement for the costs incurred by the board in
286 administering Sections 19-5-331 through 19-5-341 including, but
287 not limited to, retaining and paying the independent, third-party
288 auditor to review and disburse the cost recovery funds and to
289 prepare the reports contemplated by Sections 19-5-331 through
290 19-5-341.

291 (4) Each CMRS provider shall register with the CMRS Board
292 and shall provide the following information upon registration:

- 293 (a) The company name of the provider;
- 294 (b) The marketing name of the provider;
- 295 (c) The publicly traded name of the provider;
- 296 (d) The physical address of the company headquarters
297 and of the main office located in the State of Mississippi; and



298 (e) The names and addresses of the providers' board of
299 directors/owners.

300 Each CMRS provider shall notify the board of any change in
301 the information prescribed in paragraphs (a) through (e). The
302 board may suspend the disbursement of cost recovery funds to, and
303 may impose an administrative fine in an amount not to exceed Ten
304 Thousand Dollars (\$10,000.00) on any provider which fails to
305 comply with the provisions of this subsection.

306 **SECTION 5.** Section 19-5-337, Mississippi Code of 1972, is
307 brought forward as follows:

308 19-5-337. All technical proprietary information submitted to
309 the board or to the independent, third-party auditor as provided
310 by Section 19-5-333(2) (d) shall be retained by the board and such
311 auditor in confidence and shall be subject to review only by the
312 board. Further, notwithstanding any other provision of the law,
313 no technical proprietary information so submitted shall be subject
314 to subpoena or otherwise released to any person other than to the
315 submitting CMRS provider, the board and the aforesaid independent,
316 third-party auditor without the express permission of the
317 administrator and the submitting CMRS provider. General
318 information collected by the aforesaid independent, third-party
319 auditor shall only be released or published in aggregate amounts
320 which do not identify or allow identification of numbers of
321 subscribers of revenues attributable to an individual CMRS
322 provider.



323 **SECTION 6.** Section 19-5-339, Mississippi Code of 1972, is
324 brought forward as follows:

325 19-5-339. In accordance with the Federal Communication
326 Commission Order, no CMRS provider shall be required to provide
327 wireless Enhanced 911 Service until such time as (a) the provider
328 receives a request for such service from the administrator of a
329 Public Safety Answering Point (PSAP) that is capable of receiving
330 and utilizing the data elements associated with the service; (b)
331 funds are available pursuant to Section 19-5-333; and (c) the
332 local exchange carrier is able to support the wireless Enhanced
333 911 system.

334 **SECTION 7.** Section 19-5-341, Mississippi Code of 1972, is
335 brought forward as follows:

336 19-5-341. Wireless emergency telephone service shall not be
337 used for personal use and shall be used solely for the use of
338 communications by the public. Any person who knowingly uses or
339 attempts to use wireless emergency telephone service for a purpose
340 other than obtaining public safety assistance, or who knowingly
341 uses or attempts to use wireless emergency telephone service in an
342 effort to avoid any CMRS charges, is guilty of a misdemeanor and
343 shall be subject to a fine of not more than Five Hundred Dollars
344 (\$500.00) or imprisonment of not more than thirty (30) days in the
345 county jail, or both such fine and imprisonment. If the value of
346 the CMRS charge or service obtained in a manner prohibited by this
347 section exceeds One Hundred Dollars (\$100.00), the offense may be



348 prosecuted as a felony and punishable by a fine of not more than
349 Five Thousand Dollars (\$5,000.00) and imprisonment of not more
350 than three (3) years, or both such fine and imprisonment.

351 **SECTION 8.** This act shall take effect and be in force from
352 and after July 1, 2024.

