

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 470:

A BILL TO BE ENTITLED
AN ACT

1 To amend the following provisions of the Official Code of Georgia Annotated, so as to
2 change all references to "911" emergency numbers to read 9-1-1; Article 2 of Chapter 10 of
3 Title 20, relating to obstruction of public administration; Article 2 of Chapter 5 of Title 46,
4 relating to telephone service; Code Section 19-13-51, relating to definitions relative to the
5 "Family Violence and Stalking Protective Order Registry Act,"; Code Section 31-11-1,
6 relating to findings and declaration of policy relative to emergency services; Code Section
7 33-9-39, relating to restrictions on motor vehicle insurance surcharges relating to accidents
8 involving law enforcement officers, firefighters, or emergency medical technicians; Code
9 Section 36-60-19, relating to dispatch centers, required training for communications officers,
10 exceptions, and penalty for noncompliance; Code Section 38-3-20, relating to presentment
11 of boundary dispute by grand jury, certification to Governor, appointment of surveyor to
12 define line, and return of survey and plat to Secretary of State; Code Section 38-3-27,
13 relating to local organizations for emergency management, creation, structure, powers,
14 directors, appointment, qualifications, and compensation, state to provide financial
15 assistance, and entitlement for funding; and Code Section 50-18-72, relating to when public
16 disclosure not required and disclosure of exempting legal authority; to amend Article 2 of
17 Chapter 5 of Title 46, relating to telephone service, so as to define certain terms; to change
18 references to "911" numbers to read 9-1-1; to change the membership of the 9-1-1 Advisory
19 Committee; to provide for the update of information in a certain report; to provide a penalty;
20 to provide for the use of a wireless customer's place of primary use; to provide for a
21 maximum administrative fee; to provide for the administration of certain funds; to provide
22 for the recovery of costs; to provide for a state plan governing 911 enhanced systems; to
23 provide for a reporting of the expenditure of funds; to amend Part 1 of Article 1 of Chapter
24 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions
25 relative to sales and use tax, so as to define certain terms; to provide for a method of making
26 a notification of billing error; to provide for the identification of the place of primary use for
27 wireless customers; to provide for the provision of certain customer information to certain
28 state agencies; to repeal conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to
4 obstruction of public administration and related offenses, is amended by striking in its
5 entirety Code Section 16-10-24.3, relating to obstructing or hindering persons making
6 emergency telephone calls, and inserting in lieu thereof the following:

7 "16-10-24.3.

8 Any person who verbally or physically obstructs, prevents, or hinders another person with
9 intent to cause or allow physical harm or injury to another person from making or
10 completing a ~~911~~ 9-1-1 telephone call or a call to any law enforcement agency to request
11 police protection or to report the commission of a crime is guilty of a misdemeanor and
12 shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or
13 imprisonment not to exceed 12 months, or both."

14 **SECTION 2.**

15 Code Section 19-13-51 of the Official Code of Georgia Annotated, relating to definitions
16 relative to the "Family Violence and Stalking Protective Order Registry Act," is amended by
17 striking in its entirety paragraph (4) and inserting in lieu thereof the following:

18 "(4) 'Law enforcement officer' means any agent or officer of this state, or a political
19 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
20 either expressly by law or by virtue of public employment or service with authority to
21 enforce the criminal or traffic laws and whose duties include the preservation of public
22 order, the protection of life and property, or the prevention, detection, or investigation of
23 crime. Such term also includes the following: state or local officer, sheriff, deputy sheriff,
24 dispatcher, ~~911~~ 9-1-1 operator, police officer, prosecuting attorney, member of the State
25 Board of Pardons and Paroles, a hearing officer and parole officer of the State Board of
26 Pardons and Paroles, and a probation officer of the Department of Corrections."

27 **SECTION 3.**

28 Code Section 31-11-1 of the Official Code of Georgia Annotated, relating to 31-11-1,
29 findings and declaration of policy relative to emergency services, is amended by striking in
30 its entirety paragraph (4) of subsection (a) and inserting in lieu thereof the following:

31 "(a)(4) That the administration of an emergency medical systems communications
32 program should be the responsibility of the Department of Human Resources, acting upon
33 the recommendations of the local entity which coordinates the program; all ambulance

1 services shall be a part of this system even if this system is the ~~'911'~~ 9-1-1 emergency
2 telephone number;"

3 SECTION 4.

4 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated
5 external defibrillator program, establishment, regulations, and liability, is amended by
6 striking in its entirety paragraph (3) of subsection (b) and inserting in lieu thereof the
7 following:

8 "(b)(3) All persons who use an automated external defibrillator shall activate the
9 emergency medical services system as soon as reasonably possible by calling ~~'911'~~ 9-1-1
10 or the appropriate emergency telephone number upon use of the automated external
11 defibrillator; and"

12 SECTION 5.

13 Code Section 33-9-39 of the Official Code of Georgia Annotated, relating to restrictions on
14 motor vehicle insurance surcharges relating to accidents involving law enforcement officers,
15 firefighters, or emergency medical technicians, is amended by striking in its entirety
16 paragraph (2) and inserting in lieu thereof the following:

17 "(2) For which the law enforcement officer, firefighter, or emergency medical technician
18 furnishes proof, in the form of copies of the accident report, ~~'911'~~ 9-1-1 emergency
19 dispatch log, or the employing agency's documents, to the insurer of the condition
20 provided in paragraph (1) of this Code section."

21 SECTION 6.

22 Code Section 36-60-19 of the Official Code of Georgia Annotated, relating to dispatch
23 centers, required training for communications officers, exceptions, and penalty for
24 noncompliance, is amended by striking in its entirety subsection (b) and inserting in lieu
25 thereof the following:

26 "(b) On and after January 1, 1999, no monthly ~~'911'~~ 9-1-1 charge provided for in Code
27 Section 46-5-133 may be imposed for the support of any dispatch center unless such
28 dispatch center is in compliance with the requirements of this Code section."

29 SECTION 7.

30 Code Section 38-3-20 of the Official Code of Georgia Annotated, relating to the creation of
31 the Georgia Emergency Management Agency, director, staff, offices, director's duties, and
32 disaster coordinator, is amended by striking subsections (c) and (e) and inserting in lieu
33 thereof, respectively, the following:

1 "(c) The director may employ such professional, technical, clerical, stenographic, and other
 2 personnel, may fix their compensation, and may make such expenditures within the
 3 appropriation therefor, or from other funds made available for purposes of emergency
 4 management, as may be necessary to carry out the purposes of Article 1, this article, and
 5 Article 3 of this chapter, the duties of the agency and the director described in Part 4 of
 6 Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency Telephone Number "911" 9-1-1
 7 Service Act of 1977,' as amended."

8 "(e) The director, subject to the direction and control of the Governor, shall be the
 9 executive head of the Georgia Emergency Management Agency and shall be responsible
 10 to the Governor for carrying out the program for emergency management in this state. He
 11 or she shall coordinate the activities of all organizations for emergency management within
 12 the state, shall maintain liaison with and cooperate with emergency management agencies
 13 and organizations of other states and of the federal government, and shall have such
 14 additional authority, duties, and responsibilities authorized by Article 1, this article, and
 15 Article 3 of this chapter as may be prescribed by the Governor and such additional
 16 authority, duties, and responsibilities as described in Part 4 of Article 2 of Chapter 5 of
 17 Title 46, the 'Georgia Emergency Telephone Number "911" 9-1-1 Service Act of 1977,' as
 18 amended."

19 SECTION 8.

20 Code Section 38-3-27 of the Official Code of Georgia Annotated, relating to local
 21 organizations for emergency management, creation, structure, powers, directors,
 22 appointment, qualifications, compensation, state to provide financial assistance, and
 23 entitlement for funding, is amended by striking in its entirety paragraph (5) of subsection (a)
 24 and inserting in lieu thereof the following:

25 "(a)(5) The political subdivision shall designate an office in a building owned or leased
 26 by the political subdivision as the office of emergency management. Such office of
 27 emergency management shall have appropriate equipment and supplies, including but not
 28 limited to telephone and communication equipment, ~~connections~~ access to the '911' 9-1-1
 29 system if such system is operational in the political subdivision, desks, typewriters, file
 30 cabinets, and necessary office supplies. No such equipment or supplies shall be used for
 31 personal business. The local director shall post on the front door of the office the schedule
 32 of hours of the work week in which he will be attending to emergency management
 33 matters. The citizens of a political subdivision shall have accessibility to the office of
 34 emergency management and the local director or his designee shall be available or on call
 35 at all times beyond working hours."

SECTION 9.

Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service is amended by striking in its entirety Part 4, the "Georgia Emergency Telephone Number '911' Service Act of 1977," and inserting in lieu thereof the following:

"Part 4

46-5-120.

This part shall be known and may be cited as the 'Georgia Emergency Telephone Number "~~911~~" 9-1-1 Service Act of 1977.'

46-5-121.

(a) The General Assembly finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist numerous different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of lives, a reduction in the destruction of property, and quicker apprehension of criminals. It is the intent of the General Assembly to establish and implement a cohesive state-wide emergency telephone number '~~911~~' 9-1-1 system which will provide citizens with rapid, direct access to public safety agencies by dialing telephone number '~~911~~' 9-1-1 with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(b) The General Assembly further finds and declares that the benefits of '~~911~~' 9-1-1 service should be widely available, regardless of whether a '~~911~~' 9-1-1 call is placed from a traditional landline telephone or from a wireless telephone. It is also in the public interest that users of wireless telephones should bear some of the cost of providing this life-saving service, as users of landline telephones currently do. It is the intent of the General Assembly to bring wireless telephone service within the scope of this part and to establish a means by which local public safety agencies may provide enhanced '~~911~~' 9-1-1 service to wireless telephone users.

46-5-122.

As used in this part, the term:

1 (1) 'Addressing' means the assigning of a numerical address and street name (the name
 2 may be numerical) to each location within a local government's geographical area
 3 necessary to provide public safety service as determined by the local government. This
 4 address replaces any route and box number currently in place in the '911' 9-1-1 data base
 5 and facilitates quicker response by public safety agencies.

6 ~~(1.1)~~(2) 'Agency' means the Georgia Emergency Management Agency established
 7 pursuant to Code Section 38-3-20 unless the context clearly requires otherwise.

8 ~~(2)~~(3) 'Director' means the director of emergency management appointed pursuant to
 9 Code Section 38-3-20.

10 (4) 'Cost recovery' means the mechanism by which service suppliers may recover the
 11 recurring and nonrecurring costs they expend on the implementation of wireless 9-1-1
 12 services.

13 ~~(3)~~(5) 'Emergency "911" 9-1-1 system' means a local exchange telephone service or
 14 wireless service which facilitates the placing of calls by persons in need of emergency
 15 services to a public safety answering point by dialing the telephone number '911' 9-1-1
 16 and under which calls to '911' 9-1-1 are answered by public safety answering points
 17 established and operated by the local government subscribing to the '911' 9-1-1 service.
 18 The term 'emergency "911" 9-1-1 system' also includes 'enhanced "911" 9-1-1 service,'
 19 which means an emergency telephone system that provides the caller with emergency
 20 '911' 9-1-1 system service and, in addition, directs '911' 9-1-1 calls to appropriate public
 21 safety answering points by selective routing based on the geographical location from
 22 which the call originated and provides the capability for automatic number identification
 23 and automatic location identification features.

24 (6) 'Enhanced ZIP code' means a United States postal ZIP code of 9 or more digits.

25 ~~(4)~~(7) 'Exchange access facility' means the access from a particular telephone
 26 subscriber's premises to the telephone system of a service supplier. Exchange access
 27 facilities include service supplier provided access lines, PBX trunks, and Centrex network
 28 access registers, all as defined by tariffs of the telephone companies as approved by the
 29 Georgia Public Service Commission. Exchange access facilities do not include service
 30 supplier owned and operated telephone pay station lines, Wide Area Telecommunications
 31 Services (WATS), Foreign Exchange (FX), or incoming only lines.

32 (8) 'FIPS' means the Federal Information Processing Standard (FIPS) 55-3 or any future
 33 enhancement.

34 ~~(5)~~(9) 'Local government' means any city, county, military base, or political subdivision
 35 of Georgia and its agencies.

1 (10) 'Mobile telecommunications service' means commercial mobile radio service, as
 2 such term is defined in 47 C.F.R. Section 20.3 as in effect on June 1, 1999, or as
 3 subsequently amended.

4 ~~(6)~~(11) "'911" 9-1-1 charge' means a contribution to the local government for the '911'
 5 9-1-1 service start-up equipment costs, subscriber notification costs, addressing costs,
 6 billing costs, nonrecurring and recurring installation, maintenance, service, and network
 7 charges of a service supplier providing '911' 9-1-1 service pursuant to this part, and costs
 8 associated with the hiring, training, and compensating of dispatchers employed by the
 9 local government to operate said '911' 9-1-1 system at the public safety answering points.

10 (12) 'Place of primary use' means the street address representative of where the
 11 customer's use of the mobile telecommunications service primarily occurs, which must
 12 be the residential street address or the primary business street address of the customer.

13 ~~(7)~~(13) 'Public agency' means the state and any city, county, city and county, municipal
 14 corporation, chartered organization, public district, or public authority located in whole
 15 or in part within this state which provides or has authority to provide fire-fighting, law
 16 enforcement, ambulance, medical, or other emergency services.

17 ~~(8)~~(14) 'Public safety agency' means a functional division of a public agency which
 18 provides fire-fighting, law enforcement, emergency medical, suicide prevention, ~~civil~~
 19 ~~defense~~ emergency management dispatching, poison control, drug prevention, child
 20 abuse, spouse abuse, or other emergency services.

21 ~~(8.1)~~(15) 'Public safety answering point' means the public safety agency which receives
 22 incoming '911' 9-1-1 telephone calls and dispatches appropriate public safety agencies
 23 to respond to such calls.

24 ~~(9)~~(16) 'Service supplier' means a person or entity who provides local exchange
 25 telephone service or wireless service to a telephone subscriber.

26 ~~(10)~~(17) 'Telephone subscriber' means a person or entity to whom local exchange
 27 telephone service or wireless service, either residential or commercial, is provided and
 28 in return for which the person or entity is billed on a monthly basis. When the same
 29 person, business, or organization has several telephone access lines, each exchange access
 30 facility shall constitute a separate subscription. When the same person, business, or
 31 organization has several wireless telephones, each wireless telecommunications
 32 connection shall constitute a separate connection.

33 ~~(11)~~(18) 'Wireless enhanced "911" 9-1-1 charge' means a contribution to the local
 34 government for the following:

- 35 (A) The costs to the local government of implementing or upgrading, and maintaining,
 36 an emergency '911' 9-1-1 system which is capable of receiving and utilizing the
 37 following information, as it relates to '911' 9-1-1 calls made from a wireless

1 telecommunications connection: automatic number identification, the location of the
 2 base station or cell site which receives the '911' 9-1-1 call, and the location of the
 3 wireless telecommunications connection;

4 (B) Nonrecurring and recurring installation, maintenance, service, and network charges
 5 of a wireless service supplier to provide the information described in subparagraph (A)
 6 of this paragraph; and

7 (C) Other costs which may be paid with money from the Emergency Telephone
 8 System Fund, pursuant to subsection (e) of Code Section 46-5-134.

9 ~~(12)~~(19) 'Wireless service' means 'commercial mobile service' as defined under Section
 10 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.),
 11 regulations of the Federal Communications Commission, and the Omnibus Budget
 12 Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected
 13 voice service which is provided over networks which utilize intelligent switching
 14 capability and offer seamless handoff to customers. The term does not include one-way
 15 signaling service, data transmission service, nonlocal radio access line service, or a
 16 private telecommunications service.

17 ~~(13)~~(20) 'Wireless service supplier' means a provider of wireless service.

18 ~~(14)~~(21) 'Wireless telecommunications connection' means any mobile station for wireless
 19 service that connects a provider of wireless service to a provider of local exchange
 20 telephone service.

21 46-5-123.

22 (a) For the purposes of the development and implementation of a plan for the state-wide
 23 emergency telephone number '911' 9-1-1 system, there is created the '911' 9-1-1 Advisory
 24 Committee to be composed of the director of emergency management, who shall serve as
 25 chairperson; the ~~commissioner of administrative services~~ director of the Georgia
 26 Technology Authority or his or her designee; and ~~ten~~ 12 other members appointed by the
 27 Governor, as follows:

28 (1) Three members appointed from nominees of the Georgia Municipal Association;

29 (2) Three members appointed from nominees of the Association County Commissioners
 30 of Georgia; ~~and~~

31 (3) Four members who are experienced in and currently involved in the management of
 32 emergency telephone systems; and

33 (4) Two members who are representatives of the telecommunications industry, one of
 34 whom shall be a representative of a wireless service supplier and one of whom shall be
 35 a representative of a land based service supplier.

1 (b) When appointments are made, the associations making nominations pursuant to this
 2 Code section shall submit at least three times as many nominees as positions to be filled
 3 at that time by nominees of the association.

4 (c) The appointed members of the committee shall serve at the pleasure of the Governor.
 5 Vacancies shall be filled in the same manner as the original appointment.

6 46-5-124.

7 (a) The agency shall develop guidelines for implementing a state-wide emergency
 8 telephone number '911' 9-1-1 system. The guidelines shall provide for:

9 (1) Steps of action necessary for public agencies to effect the necessary coordination,
 10 regulation, and development preliminary to a '911' 9-1-1 system that will incorporate the
 11 requirements of each public service agency in each local government of Georgia;

12 (2) Identification of mutual aid agreements necessary to effect the '911' 9-1-1 system,
 13 including coordination on behalf of the State of Georgia with any federal agency to
 14 secure financial assistance or other desirable activities in connection with the receipt of
 15 funding that may be provided to communities for the planning, development, or
 16 implementation of the '911' 9-1-1 system;

17 (3) The coordination necessary between local governments planning or developing a
 18 '911' 9-1-1 system and other state agencies, the Public Service Commission, all affected
 19 utility and telephone companies, wireless service suppliers, and other agencies;

20 (4) The actions to establish emergency telephone communications necessary to meet the
 21 requirements for each local government, including law enforcement, fire-fighting,
 22 medical, suicide prevention, rescue, or other emergency services; and

23 (5) The actions to be taken by a local government desiring to provide wireless enhanced
 24 '911' 9-1-1 service, including requirements contained in 47 Code of Federal Regulations
 25 Section 20.18.

26 (b) The agency shall be responsible for encouraging and promoting the planning,
 27 development, and implementation of local '911' 9-1-1 system plans. The agency shall
 28 develop any necessary procedures to be followed by public agencies for implementing and
 29 coordinating such plans and shall mediate whenever disputes arise or agreements cannot
 30 be reached between the local political jurisdiction and other ~~public agencies~~ entities
 31 involving the '911' 9-1-1 system.

32 (c) Subject to the approval of the Governor, the director shall be authorized to promulgate
 33 rules and regulations to establish minimum standards relating to training and equipment.
 34 Such training standards shall not be inconsistent with the training course or certification
 35 required for communications officers under Code Section 35-8-23. Notwithstanding any
 36 other law to the contrary, no communications officer hired to the staff of a '911' 9-1-1

1 communications center shall be required to complete his or her training pursuant to Code
2 Section 35-8-23 prior to being hired or employed for such position.

3 (d) The agency shall maintain the registry of wireless service suppliers provided for in
4 Code Section 46-5-124.1.

5 46-5-124.1.

6 (a) Any service provider doing business ~~Any wireless service supplier that provides~~
7 ~~wireless service or is authorized to provide wireless service~~ in Georgia shall register the
8 following information with the director:

9 (1) The name, address, and telephone number of the representative of the ~~wireless~~
10 service supplier to whom the resolution adopted pursuant to Code Section 46-5-133 or
11 other notification of intent to provide automatic number identification or automatic
12 location identification, or both, of a wireless telecommunications connection should be
13 submitted;

14 (2) The name, address, and telephone number of the representative of the ~~wireless~~
15 service supplier with whom a local government must coordinate to implement automatic
16 number identification or automatic location identification, or both, of a wireless
17 telecommunications connection;

18 (3) The counties in Georgia in which the ~~wireless~~ service supplier is authorized to
19 provide wireless service at the time the filing is made; and

20 (4) Every corporate name under which the ~~wireless~~ service supplier is authorized to
21 provide wireless service in Georgia.

22 (b) ~~A wireless service supplier shall notify the director of any change to the information~~
23 ~~described in subsection (a) of this Code section within 30 days of such change.~~ After the
24 initial submission by each service supplier doing business in this state, the information
25 required by subsection (a) of this Code section shall be updated and submitted to the
26 director by the tenth day of January and the tenth day of July of each year or such other
27 semiannual schedule as the director may establish.

28 (c) The director shall send a notice of delinquency to any service provider which fails to
29 comply with subsection (b) of this Code section. Such notice shall be sent by certified mail
30 or statutory overnight delivery. Any service provider which fails to register and provide the
31 information required by this Code section within 30 days after receipt of a notice of
32 delinquency shall not be eligible to receive cost recovery funds as provided in subsection
33 (e) of Code Section 46-5-134 until the service provider in compliance with subsection (b)
34 of this Code section.

1 46-5-125

2 Nothing in this part shall be construed to prohibit or discourage the formation of
3 multijurisdictional or regional '911' 9-1-1 systems; and any system established pursuant to
4 this part may include the jurisdiction, or any portion thereof, of more than one public
5 agency.

6 46-5-126.

7 The agency shall coordinate its activities with those of the Public Service Commission,
8 which shall encourage the Georgia telephone industry to activate facility modification plans
9 for a timely '911' 9-1-1 implementation.

10 46-5-127.

11 After January 1, 1978, no emergency telephone number '911' 9-1-1 system shall be
12 established, and no existing system shall be expanded to provide wireless enhanced '911'
13 9-1-1 service, without written confirmation by the agency that the local plan conforms to
14 the guidelines and procedures provided for in Code Section 46-5-124.

15 46-5-128.

16 All public agencies shall assist the agency in its efforts to carry out the intent of this part;
17 and such agencies shall comply with the guidelines developed pursuant to Code Section
18 46-5-124 by furnishing a resolution of intent regarding an emergency telephone number
19 '911' 9-1-1 system.

20 46-5-129

21 The agency may develop a '911' 9-1-1 emblem which may be utilized on marked vehicles
22 used by public safety agencies participating in a local '911' 9-1-1 system.

23 46-5-130

24 The agency is authorized to apply for and accept federal funding assistance in the
25 development and implementation of a state-wide emergency telephone number '911' 9-1-1
26 system.

27 46-5-131

28 (a) Whether participating in a state-wide emergency '911' 9-1-1 system or an emergency
29 '911' 9-1-1 system serving one or more local governments, neither the state nor any local
30 government of the state nor any emergency '911' 9-1-1 system provider, its employees,
31 directors, officers, and agents, except in cases of wanton and willful misconduct or bad

1 faith, shall be liable for death or injury to the person or for damage to property as a result
 2 of either developing, adopting, establishing, participating in, implementing, maintaining,
 3 or carrying out duties involved in operating the '911' 9-1-1 emergency telephone system
 4 or in the identification of the telephone number, address, or name associated with any
 5 person accessing an emergency '911' 9-1-1 system.

6 (b) No local government of the State of Georgia shall be required to release, indemnify,
 7 defend, or hold harmless any emergency '911' 9-1-1 system provider from any loss, claim,
 8 demand, suit, or other action or any liability whatsoever which arises out of subsection (a)
 9 of this Code section, unless the local government agrees or has agreed to assume such
 10 obligations.

11 46-5-132

12 It shall be unlawful for any wireless service supplier to assess or charge any fee for an
 13 emergency telephone call placed on a '911' 9-1-1 emergency telephone system. The
 14 prohibition provided for in this Code section shall only apply to actual emergency
 15 telephone calls made on such system and shall not apply to nor prohibit any fee assessed
 16 or charged for the implementation or enhancement of such system.

17 46-5-133.

18 (a) Subject to the provisions of subsection (b) of this Code section, the governing authority
 19 of any local government which operates or which contracts for the operation of an
 20 emergency '911' 9-1-1 system is authorized to adopt a resolution to impose a monthly '911'
 21 9-1-1 charge upon each exchange access facility subscribed to by telephone subscribers
 22 whose exchange access lines are in the areas served or which would be served by the '911'
 23 9-1-1 service. Subject to the provisions of subsection (b) of this Code section and of
 24 subparagraphs (a)(2)(A) and (a)(2)(B) of Code Section 46-5-134, the governing authority
 25 of any local government which operates or contracts for the operation of an emergency
 26 '911' 9-1-1 system which is capable of providing or provides enhanced '911' 9-1-1 service
 27 to persons or entities with a wireless telecommunications connection, excluding a military
 28 base, is authorized to adopt a resolution to impose a monthly wireless enhanced '911' 9-1-1
 29 charge upon each wireless telecommunications connection subscribed to by telephone
 30 subscribers whose ~~billing address~~ place of primary use is within the geographic area that
 31 is served by the local government or that would be served by the local government for the
 32 purpose of such an emergency '911' 9-1-1 system. Such resolution, or any amendment to
 33 such resolution, shall fix a date on which such resolution and the imposition and collection
 34 of the '911' 9-1-1 charge or wireless enhanced '911' 9-1-1 charge, as provided in the
 35 resolution, shall become effective; provided, however, that such effective date shall be at

1 least 120 days following the date of the adoption of such resolution or any amendment to
 2 such resolution by the local government. The '911' 9-1-1 charge must be uniform, may not
 3 vary according to the type of exchange access facility used, and may be billed on a monthly
 4 or quarterly basis. The wireless enhanced '911' 9-1-1 charge must be uniform, not vary
 5 according to the type of wireless telecommunications connection used, and may be billed
 6 on a monthly or quarterly basis.

7 (b)(1) Except as provided in paragraph (2) of this subsection, no local government shall
 8 be authorized to exercise the power conferred by this Code section unless either:

9 (A) A majority of the voters residing in that political subdivision who vote in an
 10 election called for such purpose shall vote to authorize the implementation of this Code
 11 section. Such election shall be called and conducted as other special elections are called
 12 and conducted in such local government when requested by such local government
 13 authority. The question or questions on the ballot shall be as prescribed by the election
 14 superintendent, provided that separate questions may be posed regarding
 15 implementation of a '911' 9-1-1 charge and of a wireless enhanced '911' 9-1-1 charge;
 16 or

17 (B) After a public hearing held upon not less than ten days' public notice.

18 (2) The provisions of paragraph (1) of this subsection shall not apply with respect to a
 19 local government if the governing authority of such local government has on or before
 20 March 7, 1988, contracted with a local exchange telephone service supplier for the
 21 purchase or operation, or both, of a local exchange telephone '911' 9-1-1 system.

22 (c) On and after January 1, 1999, no monthly '911' 9-1-1 charge provided for in this Code
 23 section may be imposed or continue to be imposed unless each dispatch center funded in
 24 whole or in part from such charges is in compliance with Code Section 36-60-19, relating
 25 to required TDD training for communications officers.

26 46-5-134.

27 (a)(1) The subscriber of an exchange access facility may be billed for the monthly '911'
 28 9-1-1 charge, if any, imposed with respect to that facility by the service supplier. Such
 29 '911' 9-1-1 charge may not exceed \$1.50 per month per exchange access facility provided
 30 to the telephone subscriber. All exchange access facilities billed to federal, state, or local
 31 governments shall be exempt from the '911' 9-1-1 charge. Each service supplier shall, on
 32 behalf of the local government, collect the '911' 9-1-1 charge from those telephone
 33 subscribers to whom it provides exchange telephone service in the area served by the
 34 emergency '911' 9-1-1 system. As part of its normal billing process, the service supplier
 35 shall collect the '911' 9-1-1 charge for each month an exchange access facility is in
 36 service, and it shall list the '911' 9-1-1 charge as a separate entry on each bill. If a service

1 supplier receives a partial payment for a bill from a telephone subscriber, the service
 2 supplier shall apply the payment against the amount the telephone subscriber owes the
 3 service supplier first.

4 (2)(A) If the governing authority of a local government operates or contracts for the
 5 operation of an emergency '911' 9-1-1 system which is capable of providing or provides
 6 automatic number identification of a wireless telecommunications connection and the
 7 location of the base station or cell site which receives a '911' 9-1-1 call from a wireless
 8 telecommunications connection, the subscriber of a wireless telecommunications
 9 connection whose billing address is within the geographic area that is served by the
 10 local government or that would be served by the local government for the purpose of
 11 such an emergency '911' 9-1-1 system may be billed for the monthly wireless enhanced
 12 '911' 9-1-1 charge, if any, imposed with respect to that connection by the wireless
 13 service supplier. Such wireless enhanced '911' 9-1-1 charge may not exceed the amount
 14 of the monthly '911' 9-1-1 charge imposed upon subscribers of exchange access
 15 facilities pursuant to paragraph (1) of this subsection ~~and, in no event, shall such~~
 16 ~~wireless enhanced '911' charge~~ nor exceed \$1.00 per month per wireless
 17 telecommunications connection provided to the telephone subscriber.

18 (B) ~~If On and after October 1, 2001,~~ if the governing authority of a local government
 19 operates or contracts for the operation of an emergency '911' 9-1-1 system which is
 20 capable of providing or provides automatic number identification and automatic
 21 location identification of a wireless telecommunications connection, the subscriber of
 22 a wireless telecommunications connection whose ~~billing address~~ place of primary use
 23 is within the geographic area that is served by the local government or that would be
 24 served by the local government for the purpose of such an emergency '911' 9-1-1
 25 system may be billed for the monthly wireless enhanced '911' 9-1-1 charge, if any,
 26 imposed with respect to that connection by the wireless service supplier. Such wireless
 27 enhanced '911' 9-1-1 charge may not exceed the amount of the monthly '911' 9-1-1
 28 charge imposed upon subscribers of exchange access facilities pursuant to paragraph (1)
 29 of this subsection and shall be imposed on a monthly basis for each wireless
 30 telecommunications connection provided to the telephone subscriber.

31 (C) All wireless telecommunications connections billed to federal, state, or local
 32 governments shall be exempt from the wireless enhanced '911' 9-1-1 charge. Each
 33 wireless service supplier shall, on behalf of the local government, collect the wireless
 34 enhanced '911' 9-1-1 charge from those telephone subscribers whose ~~billing address~~
 35 place of primary use is within the geographic area that is served by the local
 36 government or that would be served by the local government for the purpose of such
 37 an emergency '911' 9-1-1 system. As part of its normal billing process, the wireless

1 service supplier shall collect the wireless enhanced '911' 9-1-1 charge for each month
 2 a wireless telecommunications connection is in service, and it shall list the wireless
 3 enhanced '911' 9-1-1 charge as a separate entry on each bill. If a wireless service
 4 supplier receives partial payment for a bill from a telephone subscriber, the wireless
 5 service supplier shall apply the payment against the amount the telephone subscriber
 6 owes the wireless service supplier first.

7 (D) Notwithstanding the foregoing, the application of any '911' 9-1-1 service charge
 8 with respect to a mobile telecommunications service, as defined in 4 U.S.C. Section
 9 124(7), shall be governed by the provisions of Code Section 48-8-6.

10 (b) Every telephone subscriber in the area served by the emergency '911' 9-1-1 system
 11 shall be liable for the '911' 9-1-1 and the wireless enhanced '911' 9-1-1 charges imposed
 12 under this Code section until it has been paid to the service supplier. A service supplier
 13 shall have no obligation to take any legal action to enforce the collection of the '911' 9-1-1
 14 or wireless enhanced '911' 9-1-1 charge. The service supplier shall provide the governing
 15 authority within 60 days with the name and address of each subscriber who has refused to
 16 pay the '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge after such '911' 9-1-1 or
 17 wireless enhanced '911' 9-1-1 charge has become due. A collection action may be initiated
 18 by the local government that imposed the charges, and reasonable costs and attorneys' fees
 19 associated with that collection action may be awarded to the local government collecting
 20 the '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge.

21 (c) The local government contracting for the operation of an emergency '911' 9-1-1 system
 22 shall remain ultimately responsible to the service supplier for all emergency '911' 9-1-1
 23 system installation, service, equipment, operation, and maintenance charges owed to the
 24 service supplier. Any taxes due on emergency '911' 9-1-1 system service provided by the
 25 service supplier will be billed to the local government subscribing to the service. State and
 26 local taxes do not apply to the '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge billed to
 27 telephone subscribers under this Code section.

28 (d)(1) Each service supplier that collects '911' 9-1-1 or wireless enhanced '911' 9-1-1
 29 charges on behalf of the local government is entitled to retain as an administrative fee an
 30 amount equal to 3 percent of the gross '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge
 31 receipts to be remitted to the local government; provided, however, that such amount
 32 shall not exceed 3¢ for every dollar so remitted. The remaining amount shall be due
 33 quarterly to the local government and shall be remitted to it no later than 60 days after the
 34 close of a calendar quarter.

35 (2) The '911' 9-1-1 and the wireless enhanced '911' 9-1-1 charges collected by the service
 36 supplier shall be deposited and accounted for in a separate restricted revenue fund known
 37 as the Emergency Telephone System Fund maintained by the local government. The local

1 government may invest the money in the fund in the same manner that other moneys of
2 the local government may be invested and any income earned from such investment shall
3 be deposited into the Emergency Telephone System Fund.

4 ~~(2)(A) Before July 1, 2002, 30¢ of the monthly wireless enhanced '911' charge imposed~~
5 ~~pursuant to subparagraph (a)(2)(A) of this Code section shall be deposited in a separate~~
6 ~~restricted reserve account of the Emergency Telephone System Fund, which shall be~~
7 ~~designated as the Wireless Phase I Reserve Account. Money from the Wireless Phase~~
8 ~~I Reserve Account shall be used only to pay the nonrecurring and recurring installation,~~
9 ~~maintenance, service, and network charges of a wireless service supplier which are~~
10 ~~associated with providing automatic number identification of a wireless~~
11 ~~telecommunications connection and the location of the base station or cell site which~~
12 ~~receives a '911' call from a wireless telecommunications connection; provided,~~
13 ~~however, that if the local government has not, by July 1, 2002, begun operation or~~
14 ~~contracted for the operation of an emergency '911' system which is capable of providing~~
15 ~~or provides automatic location identification of a wireless telecommunications~~
16 ~~connection, the funds in the Wireless Phase I Reserve Account on July 1, 2002, shall~~
17 ~~be transferred into an appropriate unrestricted account or accounts of the Emergency~~
18 ~~Telephone System Fund and may be used for any purpose authorized under subsection~~
19 ~~(e) of this Code section. No wireless enhanced '911' charge may be imposed pursuant~~
20 ~~to subparagraph (a)(2)(B) of this Code section for a period of 24 months following the~~
21 ~~transfer of funds from the Wireless Phase I Reserve Account pursuant to this~~
22 ~~subparagraph. On and after July 1, 2002, 15¢ of the monthly wireless enhanced '911'~~
23 ~~charge imposed pursuant to subparagraph (a)(2)(A) of this Code section shall be~~
24 ~~deposited in the Wireless Phase I Reserve Account.~~

25 ~~(B) Thirty cents of the monthly wireless enhanced '911' charge imposed pursuant to~~
26 ~~subparagraph (a)(2)(B) of this Code section shall be deposited in a separate restricted~~
27 ~~reserve account of the Emergency Telephone System Fund, which shall be designated~~
28 ~~as the Wireless Phase II Reserve Account. Money from the Wireless Phase II Reserve~~
29 ~~Account shall be used only to pay the nonrecurring and recurring installation,~~
30 ~~maintenance, service, and network charges of a wireless service supplier which are~~
31 ~~associated with providing automatic number identification and automatic location~~
32 ~~identification of a wireless telecommunications connection. Any funds which are in the~~
33 ~~Wireless Phase I Reserve Account at the time when the wireless enhanced '911' charge~~
34 ~~is first imposed pursuant to subparagraph (a)(2)(B) of this Code section shall be~~
35 ~~transferred to the Wireless Phase II Reserve Account.~~

36 (3) ~~The governing authority of a local government operating or contracting for the~~
37 ~~operation of an emergency '911' system shall, by resolution, reaffirm the necessity for the~~

1 ~~'911' and the wireless enhanced '911' charges beginning with the thirteenth month~~
 2 ~~following the month in which emergency '911' system service is first provided in the~~
 3 ~~political subdivision and during such month annually thereafter. On or before July 1,~~
 4 ~~2005, any funds that may have been deposited in a separate restricted wireless reserve~~
 5 ~~account required by this Code section prior to such date shall be transferred to the~~
 6 ~~Emergency Telephone System Fund required by paragraph (2) of this subsection.~~

7 (4) The local government may on an annual basis, and at its expense, audit or cause to
 8 be audited the books and records of service suppliers with respect to the collection and
 9 remittance of 9-1-1 charges.

10 ~~(4)(5) Such monthly '911' 9-1-1 and wireless enhanced '911' 9-1-1 charges may be~~
 11 ~~reduced at any time by the governing authority by resolution; provided, however, that the~~
 12 ~~said governing authority shall be required to reduce such monthly '911' 9-1-1 or wireless~~
 13 ~~enhanced '911' 9-1-1 charge at any time the projected revenues from '911' 9-1-1 or~~
 14 ~~wireless enhanced '911' 9-1-1 charges will cause the unexpended revenues in the~~
 15 ~~Emergency Telephone System Fund at the end of the fiscal year to exceed by one and~~
 16 ~~one-half times the unexpended revenues in such fund at the end of the immediately~~
 17 ~~preceding fiscal year or at any time the unexpended revenues in such fund at the end of~~
 18 ~~the fiscal year exceed by one and one-half times the unexpended revenues in such fund~~
 19 ~~at the end of the immediately preceding fiscal year. Such reduction in the '911' 9-1-1 or~~
 20 ~~wireless enhanced '911' 9-1-1 charge shall be in an amount which will avert the~~
 21 ~~accumulation of revenues in such fund at the end of the fiscal year which will exceed by~~
 22 ~~one and one-half times the amount of revenues in the fund at the end of the immediately~~
 23 ~~preceding fiscal year. ~~Funds in the Wireless Phase I Reserve Account and the Wireless~~~~
 24 ~~~~Phase II Account shall not be considered in making the calculations described in this~~~~
 25 ~~paragraph.~~

26 (e) A wireless service supplier may recover its costs expended on the implementation and
 27 provision of wireless enhanced 9-1-1 services to subscribers in an amount not to exceed
 28 30¢ of each 9-1-1 charge collected from a place of primary use that is within the
 29 geographic area that is served by the local government or would be served by the local
 30 government for the purpose of such emergency 9-1-1 system. Such cost recovery amount
 31 shall be based on the actual cost incurred by the wireless service supplier in providing
 32 wireless enhanced 9-1-1 services. Disputes arising from the collection of such cost
 33 recovery fees shall be heard by the 9-1-1 Advisory Committee as provided in Code Section
 34 46-5-124 and as further provided in subsection (d) of Code Section 46-5-123. The method
 35 for filing a notice of a dispute concerning the collection of the cost recovery fees shall be
 36 determined by the 9-1-1 Advisory Committee.

1 (f) In addition to cost recovery as provided in subsection (e) of this Code section, money

2 Money from the Emergency Telephone System Fund shall be used only to pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone equipment, including
4 necessary computer hardware, software, and data base provisioning; addressing; and
5 nonrecurring costs of establishing a '911' 9-1-1 system;

6 (2) The rates associated with the service supplier's '911' 9-1-1 service and other service
7 supplier's recurring charges;

8 (3) The actual cost of salaries, including benefits, of employees hired by the local
9 government solely for the operation and maintenance of the emergency '911' 9-1-1
10 system and the actual cost of training such of those employees who work as dispatchers;

11 (4) Office supplies of the public safety answering points used directly in providing
12 emergency '911' 9-1-1 system services;

13 (5) The cost of leasing or purchasing a building used as a public safety answering point.

14 Moneys from the fund cannot be used for the construction or lease of an emergency '911'
15 9-1-1 system building until the local government has completed its street addressing plan;

16 (6) The lease, purchase, or maintenance of computer hardware and software used at a
17 public safety answering point, including computer-assisted dispatch systems;

18 (7) Supplies directly related to providing emergency '911' 9-1-1 system services,
19 including the cost of printing emergency '911' 9-1-1 public education materials; and

20 (8) The lease, purchase, or maintenance of logging recorders used at a public safety
21 answering point to record telephone and radio traffic.

22 (g) All 9-1-1 and communication systems provided pursuant to this part shall conform to
23 the two-step state plan governing 9-1-1 enhanced communications as follows:

24 (1) In step one, the governing authority of a local government shall operate or contract
25 for the operation of an emergency 9-1-1 system that provides or is capable of providing
26 automatic number identification of a wireless telecommunications connection and the
27 location of the base station or cell site which received a 9-1-1 call from a wireless
28 telecommunications connection; and

29 (2) In step two, the governing authority of a local government shall operate or contract
30 for the operation of an emergency 9-1-1 system that provides or is capable of providing
31 automatic number identification and automatic location of a wireless telecommunications
32 connection.

33 ~~(f)~~(h) The local government may contract with a service supplier for any term negotiated
34 by the service supplier and the local government for an emergency '911' 9-1-1 system and
35 may make payments from the Emergency Telephone System Fund to provide any
36 payments required by the contract, subject to the limitations provided by subsection (e) of
37 this Code section.

1 (g)(i) The service supplier shall maintain records of the amount of the '911' 9-1-1 and
 2 wireless enhanced '911' 9-1-1 charges collected for a period of at least three years from the
 3 date of collection. The local government may, at its expense, require an annual audit of the
 4 service supplier's books and records with respect to the collection and remittance of the
 5 '911' 9-1-1 and wireless enhanced '911' 9-1-1 charges.

6 (h)(j) In order to provide additional funding for the local government for emergency '911'
 7 9-1-1 system purposes, the local government may receive federal, state, municipal, or
 8 private funds which shall be expended for the purposes of this part.

9 (i)(k) Subject to the provisions of Code Section 46-5-133, a telephone subscriber may be
 10 billed for the monthly '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge for up to 18
 11 months in advance of the date on which the '911' 9-1-1 service becomes fully operational.

12 (j)(l) In the event the local government is a federal military base providing emergency
 13 services to local exchange telephone subscribers residing on the base, a local exchange
 14 telephone service supplier is authorized to apply the '911' 9-1-1 charges collected to the bill
 15 for '911' 9-1-1 service rather than remit the funds to an Emergency Telephone System
 16 Fund.

17 (m)(1) Any local government collecting or expending any 9-1-1 charges or wireless
 18 enhanced 9-1-1 charges in any fiscal year beginning on or after July 1, 2005, shall file an
 19 annual report of its collections and expenditures in conjunction with the annual audit
 20 required under Code Section 36-81-7. The form shall be designed by the state auditor and
 21 shall be distributed to local governments administering such funds. The annual report
 22 shall require certification by the recipient local government and by the local government
 23 auditor that funds were expended in compliance with the expenditure requirements of this
 24 Code section.

25 (2) Any local government which makes expenditures not in compliance with this Code
 26 section may be held liable for pro rata reimbursement to telephone and wireless
 27 telecommunications subscribers of amounts improperly expended. Such liability may be
 28 established in judicial proceedings by any aggrieved party. The noncompliant local
 29 government shall be solely financially responsible for the reimbursement and for any
 30 costs associated with the reimbursement. Such reimbursement shall be accomplished by
 31 the service providers abating the imposition of the 9-1-1 charges and 9-1-1 wireless
 32 enhanced charges until such abatement equals the total amount of the rebate.

33 46-5-134.1.

34 (a) This Code section shall apply in counties where the governing authorities of more than
 35 one local government have adopted a resolution to impose a wireless enhanced '911' 9-1-1

1 charge in accordance with the provisions of subsection (a) of Code Section 46-5-133 and
2 notwithstanding any contrary provision of Code Section 46-5-133 or 46-5-134.

3 (b) A wireless service supplier may certify to any of the governing authorities described
4 in subsection (a) of this Code section that the wireless service supplier is unable to
5 determine whether the billing addresses of its subscribers are within the geographic area
6 that is served by such local government. Upon such certification, the wireless service
7 supplier shall be authorized to collect the wireless enhanced '911' 9-1-1 charge from any
8 of its subscribers whose billing address is within the county and is within an area that is as
9 close as reasonably possible to the geographic area that is served by such local government.
10 The wireless service supplier shall notify such subscribers that if such subscriber's billing
11 address is not within the geographic area served by such local government, such subscriber
12 is not obligated to pay the wireless enhanced '911' 9-1-1 charge.

13 (c) Unless otherwise provided in an agreement among the governing authorities described
14 in subsection (a) of this Code section, the charges collected by a wireless service supplier
15 pursuant to this Code section shall be remitted to such governing authorities based upon
16 the number of calls from wireless telecommunications connections that each such
17 individual local government receives and counts relative to the total number of calls from
18 wireless telecommunications connections that are received and counted by all of such local
19 governments.

20 (d) The authority granted to a wireless service supplier pursuant to this Code section shall
21 terminate (1) on the date that the wireless service supplier certifies to a governing authority
22 described in subsection (a) of this Code section that the wireless service supplier is able to
23 determine whether the billing addresses of its subscribers are within the geographic area
24 that is served by such governing authority or (2) on the date which is 180 days from the
25 date that any of its subscribers were first billed under this Code section, whichever is
26 earlier. Upon termination of such authority, the wireless service supplier shall collect the
27 wireless enhanced '911' 9-1-1 charge as provided in Code Section 46-5-134.

28 46-5-135.

29 A service supplier, including any telephone company and its employees, directors, officers,
30 and agents, is not liable for any damages in a civil action for injuries, death, or loss to
31 persons or property incurred by any person as a result of any act or omission of a service
32 supplier or any of its employees, directors, officers, or agents, except for willful or wanton
33 misconduct, either in connection with developing, adopting, implementing, maintaining,
34 or operating any emergency '911' 9-1-1 system or in the identification of the telephone
35 number, address, or name associated with any person accessing an emergency '911' 9-1-1
36 system.

1 46-5-136.

2 (a) The governing authority of a local government by resolution shall create an advisory
3 board consisting of the sheriff, representatives from other public safety agencies which
4 respond to emergency calls under the system, and other individuals knowledgeable of
5 emergency '911' 9-1-1 systems and the emergency needs of the citizens of the local
6 government, provided that such advisory board shall not exceed 13 members.

7 (b) The advisory board shall assist the local government in:

8 (1) Reviewing and analyzing the progress by public safety agencies in developing '911'
9 9-1-1 system requirements;

10 (2) Recommending steps of action to effect the necessary coordination, regulation, and
11 development of a '911' 9-1-1 system;

12 (3) Identifying mutual aid agreements necessary to effect the '911' 9-1-1 system;

13 (4) Assisting in the promulgation of necessary rules, regulations, operating procedures,
14 schedules, and other such policy and administrative devices as shall be deemed necessary
15 and appropriate; and

16 (5) Providing other services as may be deemed appropriate by the local government.

17 (c) The members of the advisory board shall not be compensated from moneys deposited
18 into the Emergency Telephone System Fund.

19 46-5-137.

20 This part shall not be construed as affecting the jurisdiction or powers of the Public Service
21 Commission to establish rates, charges, or tariffs.

22 46-5-138.

23 (a)(1) By proper resolution of the local governing bodies, an authority may be created
24 and activated by:

25 (A) Any two or more municipal corporations;

26 (B) Any two or more counties; or

27 (C) One or more municipal corporations and one or more counties.

28 (2) The resolutions creating and activating a joint authority shall specify the number of
29 members of the authority, the number to be appointed by each participating county or
30 municipal corporation, their terms of office, and their residency requirements.

31 (3) The resolutions creating and activating joint authorities may be amended by
32 appropriate concurrent resolutions of the participating governing bodies.

33 (b) The public authority shall be authorized to contract with the counties or municipalities
34 which formed the authority to operate an emergency '911' 9-1-1 system for such local
35 governments throughout the corporate boundaries of such local governments. Pursuant to

1 such contracts, the local governments shall be authorized to provide funding to the
2 authority from the Emergency Telephone System Fund, including the Wireless Phase I and
3 Phase II Reserve Accounts, maintained by each local government. No authority shall be
4 formed until each local government forming the authority has imposed a monthly '911'
5 9-1-1 charge or a monthly wireless enhanced '911' 9-1-1 charge.

6 (c) Each authority shall have all of the powers necessary or convenient to carry out and
7 effectuate the purposes and provisions of this part, including, but without limiting the
8 generality of the foregoing, the power:

9 (1) To bring and defend actions;

10 (2) To adopt and amend a corporate seal;

11 (3) To make and execute contracts and other instruments necessary to exercise the
12 powers of the authority;

13 (4) To receive and administer gifts, grants, and devises of any property;

14 (5) To operate emergency call answering services for law enforcement, emergency
15 management, fire, and emergency medical service agencies 24 hours a day, seven days
16 a week, 365 days a year;

17 (6) To acquire, by purchase, gift, or construction, any real or personal property desired
18 to be acquired to operate the emergency '911' 9-1-1 system;

19 (7) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, or grant
20 options for any real or personal property or interest therein for any such purposes; and

21 (8) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls,
22 charges, or fees owned or received by the authority.

23 (d) The authority shall elect a chairperson and such other officers as deemed necessary by
24 the authority. The authority shall select a director who shall be responsible for establishing
25 operating standards and procedures and overseeing the operations of the emergency '911'
26 9-1-1 system. The director may be an employee working in the operation of the emergency
27 '911' 9-1-1 system. The authority shall be responsible for hiring, training, supervising, and
28 disciplining employees working in the operation of the emergency '911' 9-1-1 system. An
29 appropriate number of full-time and part-time employees shall be hired to operate the
30 emergency '911' 9-1-1 system. The authority shall determine the compensation of such
31 employees and shall be authorized to provide other employee benefits. The authority shall
32 submit its annual budget and a report of its financial records to the local governments
33 which created the authority.

34 (e) The authority may contract with a service supplier in the same manner that local
35 governments are so authorized under the provisions of this part.

36 (f) Notwithstanding subsection (i) of Code Section 46-5-134, if the joint authority and each
37 local governing body activating the joint authority certify to the service provider in writing

1 prior to the end of the 18 month period in advance of the date on which the '911' 9-1-1
 2 service was to have become fully operational that the system cannot be placed in operation
 3 on the date originally projected but that all parties are proceeding in a diligent and timely
 4 fashion to implement such service, the service provider shall continue to collect the
 5 monthly '911' 9-1-1 charge for an additional period of 18 months or until the '911' 9-1-1
 6 service becomes fully operational, whichever occurs first.

7 46-5-138.1.

8 (a) Notwithstanding any provision of paragraph (1) of subsection (a) of Code Section
 9 46-5-134 to the contrary, where two or more counties, none of which offers emergency
 10 '911' 9-1-1 services on May 1, 1998, and any participating municipalities within such
 11 counties, if any, agree by intergovernmental contract to initiate or contract for the joint
 12 operation of an emergency '911' 9-1-1 system for the first time after May 1, 1998, such
 13 local governments may impose a monthly '911' 9-1-1 charge which exceeds \$1.50 per
 14 exchange access facility but only so long as the following procedure is followed:

15 (1) The participating local governments shall, with input from a local exchange service
 16 supplier, prepare an estimated budget for the implementation of the joint emergency '911'
 17 9-1-1 system with costs limited to items eligible for funding through the Emergency
 18 Telephone System Fund;

19 (2) An estimate of the revenue to be generated by the '911' 9-1-1 charge authorized by
 20 paragraph (1) of subsection (a) of Code Section 46-5-134 during the first 18 months of
 21 collection shall be prepared;

22 (3) If the total amount necessary for implementation of the emergency '911' 9-1-1 system
 23 in paragraph (1) of this subsection exceeds the estimated revenue from imposition of the
 24 '911' 9-1-1 charge specified in paragraph (2) of this subsection, the monthly '911' 9-1-1
 25 charge per exchange access facility may be increased on a pro rata basis during the first
 26 18 months of collection to the extent necessary to provide revenue sufficient to pay the
 27 amount specified in paragraph (1) of this subsection, but in no case shall such monthly
 28 charge be greater than \$2.50 per exchange access facility. Notwithstanding subsection (i)
 29 of Code Section 46-5-134, if each local governing body which is a party to an
 30 intergovernmental contract certifies to the service provider in writing prior to the end of
 31 the 18 month period in advance of the date on which the '911' 9-1-1 service was to have
 32 become fully operational that the system cannot be placed in operation on the date
 33 originally projected but that all parties are proceeding in a diligent and timely fashion to
 34 implement such service, the service provider shall continue to collect the monthly '911'
 35 9-1-1 charge for an additional period of 18 months or until the '911' 9-1-1 service
 36 becomes fully operational, whichever occurs first; and

1 (4) Such local governments comply with the requirements of Code Section 46-5-133
2 which relate to the imposition of a monthly '911' 9-1-1 charge.

3 Nothing in this subsection shall be construed to authorize the imposition of any charge
4 upon a wireless telecommunications connection. Except as otherwise provided in this
5 subsection, the requirements of Code Section 46-5-134 which relate to monthly '911' 9-1-1
6 charges on exchange access facilities shall apply to charges imposed pursuant to this
7 subsection.

8 (b) The increased monthly '911' 9-1-1 charge authorized by subsection (a) of this Code
9 section shall also be available to any joint '911' 9-1-1 authority created pursuant to Code
10 Section 46-5-138 after May 1, 1998.

11 ~~46-5-139.~~

12 ~~Following the conclusion of the 2002 session of the General Assembly, the President of the~~
13 ~~Senate and the Speaker of the House of Representatives shall each appoint no fewer than~~
14 ~~three members of their respective bodies to serve as members of the Joint Study Committee~~
15 ~~on Wireless Enhanced '911' Charges. Such joint study committee shall make any~~
16 ~~recommendations it considers appropriate to the General Assembly no later than December~~
17 ~~31, 2002. The General Assembly may implement the provisions of this Code section by~~
18 ~~appropriate resolution."~~

19 SECTION 10.

20 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
21 relating to general provisions relative to sales and use tax, is amended by striking in its
22 entirety Code Section 48-8-13, relating to taxing jurisdictions for mobile telecommunications
23 services, and inserting in lieu thereof the following:

24 "48-8-13.

25 (a) For purposes of this Code section, the terms and corresponding definitions set forth in
26 4 U.S.C. Section 124 shall apply. In addition, as used in this Code section, the term:

27 (1) 'Enhanced ZIP code' means a United States postal ZIP code of 9 or more digits.

28 (2) 'Fee' shall include, without limitation, any emergency 9-1-1 charge imposed pursuant
29 to Part 4 of Article 2 of Chapter 5 of Title 46.

30 (3) 'FIPS' means the Federal Information Processing Standard (FIPS) 55-3 or any future
31 enhancement.

32 (4) 'Home service provider' means the facilities based carrier or reseller with which the
33 customer contracts for the provision of mobile telecommunications services.

1 (5) 'Mobile telecommunications service' means commercial mobile radio service, as such
2 term is defined in 47 C.F.R. Section 20.3 as in effect on June 1, 1999, or as subsequently
3 amended.

4 (6) 'Place of primary use' means the street address representative of where the customer's
5 use of the mobile telecommunications service primarily occurs, which must be the
6 residential street address or the primary business street address of the customer. At such
7 time as the state certifies a master street address data base covering all or a portion of the
8 state, addresses within the area so covered shall be identified by FIPS code. If the state
9 has not designated such a data base, a home service provider desiring to be held harmless
10 from any tax, charge, or fee liability under the provisions of 4 U.S.C. Section 120 shall
11 employ an enhanced ZIP code to assign each street address to a specific taxing
12 jurisdiction for each level of taxing jurisdiction and exercise due diligence at each level
13 of taxing jurisdiction to ensure that each such street address is assigned to the correct
14 taxing jurisdiction. If an enhanced ZIP code overlaps boundaries of taxing jurisdictions
15 of the same level, the home service provider shall designate one specific jurisdiction
16 within such enhanced ZIP code for use in taxing the activity for such enhanced ZIP code
17 for each level of taxing jurisdiction.

18 (7) 'Taxing jurisdiction' means the state or any municipality or county.

19 (b) Subject to the provisions of 4 U.S.C. Section 116(c), the tax levied by this chapter shall
20 apply only to those charges for mobile telecommunications services subject to tax that are
21 deemed to be provided to a customer by a home service provider pursuant to 4 U.S.C.
22 Section 117(a) if the customer's place of primary use is located within this state, regardless
23 of where the mobile telecommunications services originate, terminate, or pass through.

24 (c) If a customer believes that an amount of tax, charge, or fee or an assignment of place
25 of primary use or taxing jurisdiction included on a bill under the provisions of this Code
26 section is erroneous, the customer shall notify the home service provider in writing to the
27 address provided as required by subsection (g) of this Code section. The customer shall
28 include in this written notification the street address for the customer's place of primary
29 use, the account name and number for which the customer seeks a correction, a description
30 of the error asserted by the customer, and any other information that the home service
31 provider reasonably requires to process the request. Within 60 days of receiving a notice
32 under this subsection, the home service provider shall review its records to determine the
33 customer's taxing jurisdiction. If this review shows that the amount of tax, charge, or fee
34 or assignment of place of primary use or taxing jurisdiction is in error, the home service
35 provider shall correct the error and refund or credit the amount of tax, charge, or fee
36 erroneously collected from the customer for a period of up to two years. If this review
37 shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing

1 jurisdiction is correct, the home service provider shall provide a written explanation to the
2 customer. The procedures in this subsection shall be the first course of remedy available
3 to customers seeking correction of assignment of place of primary use or taxing jurisdiction
4 or a refund of or other compensation for taxes, charges, or fees erroneously collected by
5 the home service provider, and no cause of action based upon a dispute arising from such
6 taxes, charges, or fees shall accrue until a customer has exhausted the remedies set forth
7 in this subsection.

8 (d)(1) If a mobile telecommunications service is not subject to the tax levied by this
9 chapter, and if the amount charged for such mobile telecommunications service is
10 aggregated with and not separately stated from the amount paid or charged for any
11 service that is subject to such tax, then the nontaxable mobile telecommunications service
12 shall be treated as being subject to such tax unless the home service provider can
13 reasonably identify the amount paid or charged for the mobile telecommunications
14 service not subject to such tax from its books and records kept in the regular course of
15 business.

16 (2) If a mobile telecommunications service is not subject to the tax levied by this chapter,
17 a customer may not rely upon the nontaxability of such mobile telecommunications
18 service unless the customer's home service provider separately states the amount charged
19 for such nontaxable mobile telecommunications service or the home service provider
20 elects, after receiving a written request from the customer in the form required by the
21 provider, to provide verifiable data based upon the home service provider's books and
22 records that are kept in the regular course of business that reasonably identify the amount
23 charged for such nontaxable mobile telecommunications service.

24 (e)(1) A mobile telecommunications services provider who is obligated to remit or pay
25 the tax levied by this chapter shall be held harmless from any liability, including tax,
26 interest, and penalties, which would otherwise be due solely as a result of an assignment
27 of a place of primary use to an incorrect jurisdiction, if the mobile telecommunications
28 services provider satisfies the requirements of 4 U.S.C. Section 120(a).

29 (2)(A) The department may elect to provide an electronic data base that satisfies the
30 requirements of 4 U.S.C. Section 119. If the department provides such data base, a
31 home service provider using the data contained in such data base shall be held harmless
32 from any liability, including tax, interest, and penalties, which would otherwise be due
33 solely as a result of an assignment of a place of primary use to an incorrect local
34 jurisdiction.

35 (B) Paragraph (1) of this subsection shall apply to a home service provider who is in
36 compliance with the terms of such paragraph until the later of:

37 (i) Eighteen months after the approval described in 4 U.S.C. Section 119(a); or

1 (ii) Six months after the department provides an electronic data base that satisfies the
2 requirements of 4 U.S.C. Section 119.

3 (3) A home service provider shall be responsible for obtaining and maintaining the
4 customer's place of primary use. Subject to paragraph (5) of this subsection, if the home
5 service provider's reliance on information provided by its customer is in good faith:

6 (A) The home service provider shall be entitled to rely on the applicable residential or
7 business street address supplied by such customer; and

8 (B) The home service provider shall be held harmless from liability for any additional
9 tax, including any related interest or penalties, which is based on a different
10 determination of such customer's place of primary use.

11 (4) Except as provided in paragraph (5) of this subsection, a home service provider shall
12 be allowed to treat the address used for purposes of the tax levied by this chapter for any
13 customer under a service contract in effect on August 1, 2002, as that customer's place
14 of primary use for the remaining term of such service contract or agreement, excluding
15 any extension or renewal of such service contract or agreement.

16 (5)(A) If the department determines that the address used by a home service provider
17 as a customer's place of primary use does not meet the definition of 'place of primary
18 use,' the department shall notify such customer of such determination and provide such
19 customer an opportunity to demonstrate that such address satisfies such definition.

20 (B) If the customer fails to demonstrate that the address meets the definition of such
21 customer's place of primary use, the department shall provide the home service
22 provider with the proper address to be used as such customer's place of primary use,
23 and the home service provider shall begin using the address provided by the department
24 as such customer's place of primary use in the next full billing period.

25 (6)(A) If the department determines that the assignment of a taxing jurisdiction by a
26 home service provider does not reflect the correct taxing jurisdiction, the department
27 shall notify the home service provider of such determination and provide such home
28 service provider an opportunity to demonstrate that the assignment represents the
29 correct taxing jurisdiction.

30 (B) If the home service provider fails to demonstrate that the assignment reflects the
31 correct taxing jurisdiction, the department shall provide the home service provider with
32 the correct taxing jurisdiction to be used, and the home service provider shall begin
33 using the taxing jurisdiction provided by the department in the next full billing period.

34 (f) A home service provider shall identify each customer's place of primary use and shall
35 provide at least quarterly a complete listing of the total number of customers to the Georgia
36 Emergency Management Agency. The home service provider shall indicate in such report
37 whether it is employing an enhanced ZIP Code to assign each street address to a specific

1 taxing jurisdiction so as to qualify for the safe harbor provisions of 4 U.S.C. Section 120.
 2 Further, each home service provider shall, upon request, provide information showing the
 3 total number of billings and the amount of fees collected to any taxing jurisdiction as to the
 4 customers whose place of primary use is within the jurisdiction of such taxing jurisdiction;
 5 provided, however, that in no event shall customer identification be required to be released.
 6 Such information shall initially be made available not later than July 1, 2006.

7 (g) A home service provider shall clearly state on each customer bill or invoice the
 8 following information:

9 (1) The taxing jurisdiction to which each tax and fee charged to the customer is paid and
 10 the amount paid to each taxing jurisdiction; provided, however, that such information
 11 shall initially be made available not later than July 1, 2006; and

12 (2) An address, telephone number, or electronic method for the customer to send the
 13 notification required by subsection (c) of this Code section or otherwise."

14 **SECTION 11.**

15 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
 16 disclosure not required and disclosure of exempting legal authority, is amended by striking
 17 in its entirety paragraph (16) of subsection (a) and inserting in lieu thereof the following:

18 "(16) Unless the request is made by the accused in a criminal case or by his or her
 19 attorney, public records of an emergency '911' 9-1-1 system, as defined in paragraph (3)
 20 of Code Section 46-5-122, containing information which would reveal the name, address,
 21 or telephone number of a person placing a call to a public safety answering point, which
 22 information may be redacted from such records if necessary to prevent the disclosure of
 23 the identity of a confidential source, to prevent disclosure of material which would
 24 endanger the life or physical safety of any person or persons, or to prevent the disclosure
 25 of the existence of a confidential surveillance or investigation; or"

26 **SECTION 12.**

27 All laws and parts of laws in conflict with this Act are repealed.