

**Joint Legislative Committee on Performance  
Evaluation and Expenditure Review (PEER)**

Report to  
the Mississippi Legislature



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# **A Review of the Commercial Mobile Radio Services Board**

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In 1998, the Legislature created the Commercial Mobile Radio Services (CMRS) Board to oversee the collection and distribution of a monthly \$1 surcharge on every Mississippi wireless telephone user's bill. The surcharge was intended under state law to provide emergency telephone service to comply with a Federal Communications Commission order requiring phased-in access to Enhanced 911 (E911) for users of wireless telephones. E911 systems provide a caller's telephone number and location to emergency dispatchers.

In FY 2001, the CMRS Board collected \$8.8 million in surcharge funds. By statute, seventy percent of the funds collected by the board goes to county emergency communications districts to provide E911 equipment, facilities, and staff. Approximately twenty-eight percent is allocated to reimburse wireless providers' costs of providing E911 equipment and service.

Because the CMRS Board lacks express statutory authority to audit wireless providers, oversee county emergency communication district spending, and effectively coordinate provider implementation, the board does not have the tools necessary to implement an effective wireless E911 system in Mississippi. The CMRS Board cannot verify and enforce accurate collections from providers and payments to the emergency communication districts. The lack of spending guidelines allows the possibility that districts may spend money for purposes unrelated to delivery of wireless E911 service. Also, the board lacks data on provider status and district capability in delivering wireless E911 service.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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On October 9, 2001, the PEER Committee authorized release of the report entitled **A Review of the Commercial Mobile Radio Services Board.**

A handwritten signature in cursive script, reading "Herb Frierson", written over a horizontal line.

Representative Herb Frierson, Chairman

**This report does not recommend increased funding or additional staff.**

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# A Review of the Commercial Mobile Radio Services Board

## Executive Summary

The Commercial Mobile Radio Services (CMRS) Board was created in 1998 in response to a Federal Communications Commission mandate to implement throughout all states an enhanced emergency 911 telephone system for cell phone users. The board has the statutory duty to oversee the collection and distribution of a \$1 surcharge on every Mississippi cell phone user's bill. The wireless carriers collect the money from customers, keeping one percent for administrative costs, and remit the remainder to the CMRS Fund, an interest-bearing account.

The board oversees distribution of seventy percent of the funds collected monthly to county emergency communications districts (ECDs), based on the billing address of cell phone users in each county, and administers the cost recovery plan whereby wireless providers seek reimbursement of costs incurred to build a wireless Enhanced 911 (E911) system. An Enhanced 911 Phase I compliant system provides emergency dispatchers with the caller's telephone number and, in the case of cellular users, the location of the transmitting tower from which the 911 call originates. A Phase II compliant system requires not only the cell phone number, but also the longitude and latitude of the origin of the call.

### **Weaknesses in Implementation of an Effective Wireless E911 System in Mississippi**

Because the CMRS Board lacks express statutory authority to audit wireless providers, oversee county emergency communications district spending, and effectively coordinate implementation through providers, the board does not have the tools necessary to implement an effective wireless E911 system in Mississippi.

### ***Accuracy of Surcharge Collection and Distribution***

State law does not authorize the CMRS Board to require registration of wireless providers furnishing service in Mississippi, to verify the amount providers are paying, to charge interest to providers tardy in remitting the surcharge, or to initiate collection proceedings against providers. These factors hinder the CMRS Board in accurate collection and disbursement of surcharge funds.

The CMRS Board does not verify the identity of all providers delivering wireless service in Mississippi and who are thus subject to collecting the one-dollar wireless surcharge for each connection. The board is not authorized by law to verify the number of subscribers (connections) as reported by the providers. Therefore, the board cannot be sure it is receiving all monies due from all providers under Mississippi law.

The CMRS Board also does not have policies and procedures in place to provide assurance to the counties that surcharges are accurately distributed to the appropriate county, nor does it have authority to enforce collection or charge interest when a provider fails to pay in an accurate and timely manner.

### ***Board's Lack of Oversight Authority over Emergency Communications Districts' Expenditures***

The lack of spending guidelines for emergency communications districts allows use of wireless E911 funds for purposes unrelated to the provision of wireless E911 telephone service. Local emergency communications districts find some direction, however, in official Attorney General's opinions that interpret wireline E911 laws.

Quicker emergency response time to citizens' 911 calls was the purpose behind enactment of state 911 laws and thus provides the most direct measure of whether local emergency communications districts' spending of wireless surcharge funds is appropriate.

The CMRS Board lacks statutory authority to oversee spending of county emergency communications districts. At least two of the ten districts reviewed by PEER have not been spending wireless E911 funds for items directly related to providing wireless E911 service. Although one of the districts has recently halted the practice, the other has continued to spend in this manner.



### ***Board's Administration of Provider Cost Recovery Process***

The CMRS Board lacks statutory authority to coordinate the effective and efficient implementation of wireless E911 capability through the wireless providers' cost recovery process. The board's rules for handling cost recovery do not effectively provide for ECD participation, nor do the rules contain sufficient standards to guide the board's actions. Also, the board has no authority to employ professional staff to assist in reviewing providers' plans and project costs.

### ***Board's Accountability on Financial Audit and Reporting Requirements***

The CMRS Board has not conducted timely annual audits, nor has it reported to the Legislature as required by law. Also, the board has not conducted a statutorily required cost study designed to compensate providers for actual costs incurred in meeting the FCC wireless E911 mandate. Furthermore, the board has not fully complied with several recommendations by outside auditors in the FY 1999 audit report.

## **The CMRS Board's Coordination of Wireless E911 Implementation**

The CMRS Board has not coordinated implementation of the E911 system by informing and educating local officials about state and federal law requirements, providers' responsibilities under state and federal law, and the districts' role in ensuring wireless E911 access. The lack of board communication with emergency communications districts has resulted in confusion over responsibilities under state and federal law and local districts' role in designing and implementing wireless E911 systems through the state.

Currently no mechanism exists in state law or practice for determining the status of wireless E911 access throughout the state; therefore, there is no way to assure that the system meets the needs of the local districts or the state as a whole in complying with the federal mandate.

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# Recommendations

## Recommendations for Legislative Action

1. To help assure effective implementation of Federal Communication Commission mandates regarding access of wireless users to Enhanced 911 emergency communications services, the Legislature should amend MISS. CODE ANN. Section 19-5-333 (1) (1972) to change composition of the CMRS Board by allowing for gubernatorial appointment of a six-member board. The board would be composed of two emergency 911 administrators or coordinators, two wireless provider representatives, one user, and one at-large member. The members should be chosen one from each of five Congressional Districts as existing on January 1, 2001, except for the member chosen at-large. All board members should be appointed with the advice and consent of the Senate. The Executive Director of the Mississippi Department of Information Technology Services should serve as an ex officio member with all voting privileges.
2. In order to improve board oversight over district expenditures, the Legislature should amend Section 19-5-333, Section 19-5-335, and Section 19-5-307 of MISS. CODE ANN. (1972) to:
  - Authorize the CMRS Board to develop and administer a statewide wireless E911 implementation plan to achieve the goals of FCC mandate 94-102 and subsequent federal orders regarding wireless E911.
  - Authorize the CMRS Board to procure administrative staff support contractually, as well as the services of consultants and other professionals, to achieve implementation of FCC wireless E911 requirements. Such arrangements could include contracts with the Mississippi Department of Information Technology Services for technical advisory services (e.g., establishing assistance for the cost recovery subcommittee).
3. The Legislature should amend MISS. CODE ANN. Section 19-5-307 (1972) to provide that all emergency communications district equipment purchases, including leases or lease-purchases, for implementation or upgrade and enhancement of 911 or E911 services, be made from a products

list maintained by the Mississippi Department of Information Technology Services.

4. The Legislature should amend state law to expressly allow emergency communications districts the power to enter into multi-district agreements, pursuant to a state emergency communications plan, in order to provide wireless E911 service as economically and efficiently as possible to the largest number of subscribers.
5. To assure accurate and timely collection of surcharges, the Legislature should amend MISS. CODE ANN. Section 19-5-333 (1972) to:
  - Require all providers supplying wireless telephone service in Mississippi to register annually and upon termination of services with the CMRS Board. Each provider should provide to the CMRS Board its corporate name, the name in which it is marketing services and products to the public, name of a contact person, physical and mailing addresses, and status of E911 capability in those counties in which it provides services.
  - Authorize audit of providers to assure that each provider is remitting the one-dollar surcharge per connection per month. The audit should be conducted annually of each CMRS provider, with cost to be borne by the provider. The CMRS Board should have discretion as to whether the audit costs shall be reimbursable as part of recurring costs under the cost recovery mechanism established by the CMRS Board.
  - Authorize the CMRS Board to charge interest to providers who do not remit the surcharge within thirty days of due date. Interest will accrue from the date remittance is due. The CMRS Board should be authorized to initiate legal action against providers who fail to remit the surcharge as and when due. Providers against whom the CMRS Board takes legal action should be liable for all attorneys' fees in such cases.
  - Authorize the CMRS Board to reimburse wireless providers for the "reasonable costs" of implementing and upgrading to accommodate wireless E911 service, as outlined by the FCC in 94-102 and subsequent orders, rather than "actual costs,"

so that the CMRS Board will have the discretion and flexibility to determine what constitutes reasonable costs and so reimburse providers.

## **Recommendations for Administrative Action**

6. The CMRS Board should ensure that an official minute book is maintained, with signed minutes and all relevant attachments, correspondence, financial statements, and any other documentation that is the subject of board attention, discussion, or action.
7. The CMRS Board should secure the official minutes from the previous board secretary.
8. The CMRS Board should comply with statutory requirements to complete its annual audit within sixty days of the end of the state fiscal year, as required by law, and report to the chairs of the public utilities committees in each chamber of the Mississippi Legislature, as required by law.
9. Using existing resources, the CMRS Board should develop its own web site and post each Public Safety Answering Point (PSAP), the wireless E911 capability, and carriers who provide service in each county, so that members of the public can be aware of where wireless E911 service is available. The board should also post its administrative rules and regulations on the web site.
10. The State Department of Audit should develop guidelines to assist emergency communications districts in the appropriate spending of wireless E911 monies, with the parameters of official Attorney General's opinions in mind as spending limitations.

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# A Review of the Commercial Mobile Radio Services Board

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## Introduction

### Authority

The PEER Committee authorized a review of the Commercial Mobile Radio Services Board pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972). The Commercial Mobile Radio Services Board (CMRS Board) oversees the collection and distribution of a \$1 surcharge placed on each wireless telephone subscriber's service bill. The \$1 charge is intended under state law to provide emergency telephone service to comply with a Federal Communications Commission (FCC) order that required phased-in minimum service levels designed to provide wireless telephone users access to Enhanced 911. Enhanced 911 electronically determines a caller's telephone number and location.

### Scope and Purpose

The review sought to address the following questions:

- whether the board's procedures assure that wireless surcharges are collected, distributed, and used in compliance with state law;
- whether the board's expenditures of administrative funds comply with law, regulation, policy, and guidelines;
- whether the board's distributions to providers and local entities are accurate and timely;
- whether the board's expenditure control and oversight measures assure that local expenditures comply with state and federal law and are utilized to meet federal mandates; and,

- what is the status of counties' wireless Enhanced 911 (E911) capability and readiness in meeting the federal mandate to provide wireless users access to E911.

## Method

PEER reviewed federal and state law and regulations, state Attorney General opinions on state 911 laws, and compiled a legislative history of 911 statutes in Mississippi. PEER also reviewed the CMRS Board's policies and procedures, minutes, and fiscal data since board inception. PEER interviewed CMRS Board members and local 911 officials, as well as 911 officials in other states. PEER consulted numerous professional publications, laws, and regulations of eight other southeastern states and conducted site visits to ten selected counties to evaluate their progress in meeting FCC mandates on assuring cellular telephone users access to 911. Finally, PEER reviewed and evaluated fiscal data from ten counties, selected to represent a variety of demographics, for compliance with state and federal laws and regulations.

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## Background

The following sections seek to explain the basics of the 911 emergency communications system, including:

- how basic and enhanced 911 services operate;
- the status of 911 systems in Mississippi;
- how federal mandates concerning 911 operations affect Mississippi users; and,
- the role of participants in implementing a system to meet the federal mandate.

## Description of the 911 System

### Distinction between Wireline and Wireless Telephone Systems

***Wireline* phones are traditional telephones that convey voice and other information through wired networks.**

The term "wireline" refers to traditional telephones and telephone systems that convey voice and other information through wired networks, primarily built and maintained by former Bell Telephone companies. Information travels as electrical current over wires or as light pulses along fiber optic cables in a wireline telephone system.

***Wireless* phones are portable telephones, including cellular phones.**

"Wireless" describes portable telephones without wires, including cellular telephones. Cellular telephones are basically a sophisticated two-way radio communication system dependent upon a network of radio towers and low-power base stations that both send and receive radio signals. Wireless providers divide a geographical area into smaller areas known as "cells," with each cell having a tower and base station. This use of cells gave the system its name.

Both wireless and wireline networks have built-in exchanges that allow users of one system to connect with users of the other.

## 911 Services: Wireline Telephone Systems

### *Basic 911 Service on Wireline Telephones*

**In a Basic 911 system for wireline phones, the caller must give to the dispatcher all information such as name, the number from which the call is placed, and the location where emergency services are needed.**

In a Basic 911 system, a caller dials 911 on a traditional, or wireline, telephone and someone answers (usually an emergency dispatcher at a 911 call center or Public Safety Answering Point [PSAP]). In a Basic 911 system, the dispatcher receives no information until callers give their identity, the number from which they are calling, and the location where emergency services are needed.

The answering dispatcher may be nearby, such as at the local police or sheriff's office, or hundreds of miles away at a state Department of Public Safety PSAP, depending on how the call is routed.

### *Enhanced 911 System Capabilities for Wireline Telephones*

**In an Enhanced 911 (E911) system for wireline phones, the system itself provides both callback number and location information to dispatchers.**

Some areas of Mississippi offer what is known as Enhanced 911, or E911, for wireline callers. (See page 13 for information on constraints on the CMRS Board's ability to know the extent of implementation of E911.) For emergency calls originating on wireline systems, E911 systems provide both callback number and location information to dispatchers.

When an individual calls 911 on an E911 system, the call goes first to one of four 911 tandems, or routers, in Mississippi. The router reads the call's number, and from an electronic directory, or database, determines the physical location of the telephone, such as whether the call is from inside the city or from an unincorporated area. If the router determines the call comes from an unincorporated area, then the call goes to the primary Public Safety Answering Point (PSAP), or designated 911 answering point, for that specific geographic area, such as the sheriff's department. A 911 emergency dispatcher answers the call and sends the necessary help, whether it be fire, emergency medical, or law enforcement assistance.

Thus, in a wireline system, E911 provides information on the physical location of the original call even when the caller is unable to communicate. The wireline E911 console displays for the dispatcher the telephone number and address of the caller.



This number and location information does *not* appear in Basic 911. The location information is critical when the 911 caller is disconnected or too disoriented to relay any information. In such cases, the Enhanced 911 system enables the dispatcher to send assistance regardless, because he or she already knows the location.

## 911 Services: Wireless Telephone Systems

When a cellular phone user dials 911 on a cellular telephone, the call goes from the handset to the nearest cell tower. From the tower base station, the call is transmitted to a mobile switching center, which sends it on to a 911 router. The cellular 911 calls go into the PSAP via specially constructed lines that link the wireless provider to the existing wireline system, developed and maintained before the widespread use of wireless telephones.

**If a 911 caller's wireless provider and the receiving 911 call center have wireless E911 capability, a call-back number and wireless provider information can be sent to the dispatcher (via special links to the existing system).**

**If a wireless provider offers only basic 911, the dispatcher who answers the call must question the caller about the type and location of the emergency.**

If the caller's wireless provider has wireless E911 capability, the call goes from the mobile switching center to an electronic directory or database containing a call-back number and wireless provider identification information. This information goes to the 911 router, which then sends the wireless call and callback information into the Public Safety Answering Point (PSAP) or 911 call center via the special links to the existing system.

If a wireless provider offers only basic 911, the dispatcher who answers the call must question the caller about the type and location of the emergency. This causes problems when callers are disconnected, do not know, or are too disoriented to provide critical information that delays or prevents emergency response.

Nationwide, wireless 911 calls are expected to increase. In 2000, the Cellular Telecommunications Industry of America estimated that wireless users made more than 51 million wireless 911 calls out of the 150 million total 911 calls, or roughly one-third of all 911 calls.

## Federal Support for a Wireless E911 System

### Federal Communications Commission Mandates for Providing E911 to Wireless Users

The Federal Communications Commission, the federal regulatory agency for cellular providers, mandated a five-

year plan in 1996 aimed at providing wireless telephone users with access to the same Enhanced 911 features furnished to wireline subscribers. The plan called for implementation of wireless E911 in two major phases:

Phase I	By April 1, 1998, the FCC required providers to have in place a system to deliver to the PSAP the 911 caller's mobile telephone number, as well as the location of the cell tower from which the call originated.
Phase II	By October 1, 2001, the FCC also required carriers to begin delivering to the PSAP not only the number of the wireless telephone making the 911 call, but also the longitude and latitude of the origin of the call.

Initially, the FCC required that a PSAP meet three conditions before providers delivered E911 services:

- request in writing that each wireless provider implement the E911 service;
- that the PSAP be capable of receiving and using the 911 data; and,
- provide a cost recovery mechanism whereby both local PSAPs and wireless providers could recoup their costs for improvements to furnish the service.

The FCC, in November 1999, however, dropped part of the third requirement that states have in place a cost recovery mechanism for providers. This change meant the PSAPs had only to meet the first two prerequisites for E911 deployment and have in place some method whereby the emergency call centers could recover some of their costs in upgrading to wireless E911 capability.

On October 5, 2001, the FCC further clarified when a PSAP is capable of receiving and using wireless E911 data. If the PSAP will have necessary upgrades complete by six months after the request and if it has sought the necessary equipment links with its wireline carrier, then the PSAP will be deemed capable of receiving and using wireless E911 data.

## **Congress Passes the Wireless Communications and Public Safety Act of 1999**

Congress emphasized the importance of developing wireless E911 capability in the U. S. with the passage of the Wireless Communications and Public Safety Act of 1999. The federal law designated 911 as the national emergency telephone number for both wireless and wireline telephone services. The law, however, did not require implementation of 911 by areas not using or planning to use a 911 emergency communications system.

Specifically, the act requires the FCC to:

- "encourage and support efforts by States to deploy comprehensive, end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 911 service;" and,
- "encourage each state to develop and implement coordinated statewide deployment plans through an entity designated by the governor."

## **Wireless Providers Apply for FCC Waivers**

**Most wireless providers throughout the nation filed requests for waivers from meeting the FCC's October 1, 2001, deadline for implementation of Phase II E911 service.**

As October 1, 2001 neared, almost all wireless providers throughout the country filed requests for waivers from meeting that deadline with the FCC. (See page 13 for information on constraints on the CMRS Board's ability to know the extent of implementation of E911.) The wireless providers' waiver requests generally state the same problem--that wireless technology has not yet developed enough to pinpoint a wireless caller's physical location with the consistent and adequate degree of accuracy envisioned by the FCC's mandate.

**On October 5, 2001, the FCC announced that it had conditionally approved modified compliance plans of five nationwide providers and extended the deadline for other providers' waiver applications until November 30, 2001.**

On October 5, 2001, the FCC announced that it had conditionally approved modified compliance plans of five nationwide providers, including AT&T Wireless, Cingular Wireless, Sprint PCS, Nextel, and Verizon Wireless. The modified compliance plans are individually tailored to each provider's previously filed proposal to provide Phase II wireless E911 service. The FCC will monitor each provider's progress in meeting benchmarks contained in the newly altered compliance plans through a quarterly reporting process with the FCC Enforcement Bureau. For all other wireless providers, the FCC has extended the deadline for applying for waivers until November 30, 2001.

Currently, about eighteen wireless providers serve Mississippi, with some coverage in all eighty-two counties. Based on CMRS Board information, Mississippi had roughly 736,072 cellular connections (i.e., number of phones with cellular service) during the state fiscal year that ended June 30, 2001.

## **Status of Implementing 911 and E911 in Mississippi**

Mississippi law made 911 the standard number for access to emergency services beginning in 1987. State law also requires all telephone service suppliers operating in Mississippi to provide 911 access to the locally designated PSAP on an E911 basis if technically feasible and on basic 911 basis at a minimum.

Despite the existence of federal and state laws, some counties in Mississippi do not offer either Basic 911 or Enhanced 911 service. (See page 13 for information on constraints on the CMRS Board's ability to know the extent of implementation of E911.) At least one of the ten Mississippi counties PEER sampled offers no 911 service at all; residents with an emergency call the county sheriff's office. A county official stated that the county is unable to afford the equipment necessary to offer 911 services. Moreover, Mississippi has not designated an entity to develop a statewide emergency communications plan under the Wireless Communications and Public Safety Act of 1999.

## **Roles of Participants in Wireless E911 System Implementation: CMRS Board, Emergency Communications Districts, and Wireless Providers**

In response to the FCC's broad mandate, the Mississippi Legislature enacted Senate Bill 2821 in 1998. The measure created the Commercial Mobile Radio Services Board (CMRS Board) as a participant in the implementation of wireless E911 in the state, along with county emergency communications districts (ECDs or districts) and the wireless providers.

## The Role of the CMRS Board in Wireless E911 System Implementation

### *Organization and Membership*

The five-member CMRS Board is nominated and thus appointed by the following organizations:

- the Mississippi Association of Commercial Mobile Radio Service providers--two nominees;
- the Southern Public Service Commission District, chosen from the National Emergency Numbering Association--one nominee;
- the Central Public Service Commissioner District, chosen from the Mississippi Chapter of the American Association of Public Safety Communication Officers -- one nominee; and,
- the Northern Public Service Commission District, chosen from the Mississippi 911 Coordinators Association--one nominee.

Board members are not subject to gubernatorial appointment or Senate confirmation.

After initially staggered terms, board members serve two-year terms. They serve without compensation, but are reimbursed for actual expenses and travel costs.

Mississippi's board membership is similar to that of comparable boards in seven other southeastern states. In the eight southeastern states reviewed, boards include representation from state and local officials, as well as providers. (Texas is the only one of the states reviewed whose board does not include provider representatives.) One major difference between Mississippi and other southeastern states is that most states have a state agency representative on the board, and Mississippi does not. Other states' state agency representatives include the state auditor, information technology, emergency management, public utilities, or public health representatives. (See Appendix, page 45.)

## ***Responsibility and Functions***

**State law charges the CMRS Board with the responsibility to collect and distribute a \$1 surcharge on each wireless telephone connection.**

MISS. CODE ANN. Section 19-5-333 (2) (1972) charges the CMRS Board with the responsibility to collect and distribute a \$1 surcharge on each wireless telephone connection to pay local emergency communications districts for "use in providing wireless E911 service" and to reimburse providers for operation and upgrade costs necessary to meet the FCC mandate.

Specifically, the board's statutory responsibilities, enumerated in MISS. CODE ANN. Section 19-5-333, are to:

- collect and distribute the surcharge;
- establish and maintain the Commercial Mobile Radio Services Fund to repay providers for costs of meeting wireless E911 requirements;
- establish a distribution formula for local emergency communications districts;
- obtain from an independent, third-party auditor an audit of the board no later than sixty days after the close of each fiscal year;
- forward the annual audit reports to the chairmen of the public utilities committees in the House and Senate;
- conduct a cost study before October 1, 1999, and adjust the distribution formula to reflect actual costs incurred by each CMRS provider in order to comply with the FCC mandate;
- disburse the funds as dictated by statute; and,
- promulgate rules and regulations.

### ***Extent of the Board's Statutory Authority***

**Because the CMRS Board lacks specific statutory authority to hire staff, it is not considered a state agency. The board must contract for administrative assistance, primarily for surcharge collection and distribution.**

As with any statutory entity, the powers and duties of the CMRS Board are limited by statute [MISS. CODE ANN. Section 19-5-333 (1972)]. The Legislature did not grant the CMRS Board specific authority to hire "subordinate staff." Because the CMRS Board lacks this specific authority, it is not considered a state agency, according to an official opinion by the state Attorney General's office. As a practical matter, this means that the board must contract with a local accounting firm to furnish administrative assistance, primarily collection and disbursement of the wireless surcharge, and to take and maintain monthly meeting minutes. The board also contracts with the state Attorney General's office for legal representation and with another accounting firm for the statutorily required annual audit of collections and disbursements. (This was necessary because since the board is not considered a state agency, the state Department of Audit declined to perform annual audits.)

**The board does not have specific statutory authority to legally pursue wireless carriers who fail to pay the surcharge or to oversee emergency communications districts' spending of wireless E911 funds.**

The board does not have authority to legally pursue wireless carriers who fail to collect and pay the wireless service surcharge. The board also lacks authority to oversee emergency communications districts' spending of wireless E911 funds or the authority to promulgate regulations or uniform controls to assist counties in appropriately spending wireless E911 funds.

### **The Role of Emergency Communications Districts in Wireless E911 System Implementation**

In making 911 the state's standard emergency services telephone number, state law also created for counties the option of forming an emergency communications district to handle emergency communications matters. Up to 1987, several counties, such as Hinds, Forrest, and Lamar, had formed such districts under local and private legislation.

The measure creating the CMRS Board, however, refers only to local emergency communications districts (ECD), not counties, as recipients of the monthly CMRS funds. Therefore, the CMRS Board gave counties until July 1, 2001, to provide documentation that each county formed an emergency communications district in order to continue to receive CMRS funds.

**Emergency communications districts are to use surcharge funds to provide wireless E911 service; however, no statutory guidelines exist for what constitutes appropriate spending.**

Under the CMRS Board statute, ECDs must use the money "in providing wireless E911 service, including capital improvements, and in their normal operations" [MISS. CODE ANN. Section 19-5-333 (2) (c) (ii)]. However, no other statutory guidelines exist for what constitutes appropriate spending related to providing wireless E911 service, nor does the CMRS Board have authority over the ECDs in order to facilitate the planning and implementation of a statewide wireless E911 system.

Public Safety Answering Points (PSAPs), or the 911 call centers, are not under emergency communications district control. The PSAPs typically operate out of the police or sheriff's department; one county may have numerous PSAPs, one for each municipality in the county. The districts, however, usually pay for 911 service to the PSAPs within their borders.

## **The Role of Providers in Wireless E911 System Implementation**

**Providers develop and submit to the CMRS Board cost recovery plans that detail designs for implementation of wireless E911. In Mississippi, providers may file for reimbursement of actual costs associated with meeting the FCC's wireless E911 mandate.**

Providers collect the surcharge from their customers and retain one percent of the gross amount as an administrative fee. Providers also develop and submit to the CMRS Board cost recovery plans that detail providers' designs for implementation and deployment of wireless E911 in the areas in which the provider may be licensed by the FCC to do business. These plans include projected costs. Under the statute, providers may file for reimbursement of "actual costs" associated with meeting the FCC wireless E911 mandates, including "costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing or maintaining all necessary data, hardware and software required in order to provide such service as well as the incremental costs of operating such service" [MISS. CODE ANN. Section 19-5-333 (2) (c) (i) (1972)]. As part of implementation of wireless E911, providers test the service with each PSAP in the district to assure that the systems are compatible.

The role of providers is a continuing one in regard to cost recovery. After implementation of the wireless E911 plans, providers submit cost recovery requests by sworn invoice after work is complete. Wireless providers are also entitled to reimbursement for their recurring costs, such as connection charges into the existing wireline E911 system and maintaining database information, such as the cellular telephone numbers of customers.



## **Constraints on the CMRS Board's Ability to Determine the Status of Counties' E911 Capabilities**

**Wireless communication technology is industry-driven, subject to very little regulation or oversight at the state level, and no requirement is in place for providers to register or give public information on their service in Mississippi.**

The board is constrained in fulfilling its responsibilities by the nature of wireless communication and the nature of local government. Wireless communication technology is industry-driven, subject to very little regulation or oversight at the state level, and no requirement is in place for providers to register or give information on their service (e.g., type of capability their system has). Also, different providers operate in different areas and there is no uniformity of service between ECDs. ECDs are a function of county government. Each county's ECD has a different level of expertise and capability of equipment and there is no central coordinating point for counties (e.g., at which to report capabilities of equipment). Further, as noted earlier, the ECD may not control all of its PSAPs.

**The CMRS Board does not know whether all public safety answering points in each county have equipment capable of receiving and processing wireless E911 calls.**

Thus the CMRS Board does not presently have a way to determine how many of the PSAPs in each ECD have equipment capable of "receiving and utilizing the data elements associated with the [E911] service" [MISS. CODE ANN. Section 19-5-339 (1972)]. A county-by-county survey would provide information on the status of all counties' wireless E911 equipment capability; however, the CMRS Board does not have explicit statutory authority or a staff to conduct such a survey.

The CMRS Board has approved five providers' cost recovery plans. These plans are currently in the implementation phase. CMRS Board members say that once implementation is complete, Phase I wireless E911 coverage should be available in all eighty-two Mississippi counties. However, the CMRS Board does not know whether all PSAPs in each county have equipment capable of receiving and processing wireless E911 calls.

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## Collection and Distribution of the Wireless Telephone Surcharge

**State law allows each service provider to retain one percent of the \$1 surcharge to cover the cost of collecting, handling, and processing the service charges. The remaining funds (ninety-nine cents of every dollar charge) are deposited into the CMRS Fund.**

Collection and distribution of wireless telephone surcharges are governed by MISS. CODE ANN. Section 19-5-333 (1972), which details the percentages used in disbursement. This statute authorizes the CMRS Board to collect and distribute a one-dollar surcharge per month per connection. Providers must remit the surcharge, minus one percent, within thirty days after the end of the calendar month in which the service charge is collected (see Exhibit 1, p. 16). MISS. CODE ANN. Section 19-5-335 (2) (1972) allows each service provider to retain one percent of the one-dollar surcharge to cover the cost of collecting, handling, and processing the service charges. The remitted service charges (ninety-nine cents of every dollar charge) are deposited into the CMRS Fund. (See Exhibit 1, page 16, for a flow diagram of collection and distribution of CMRS funds.)

### Administrative and Provider Expense Allocations

**Thirty percent of the money in the CMRS Fund pays actual costs of providers in complying with E911 requirements established by the FCC. No more than two percent of the money allocated to the CMRS Fund is allowed for the board's administrative expenses.**

Of the funds collected, state law requires that all money go into the CMRS Fund, which must be an interest-bearing account. Thirty percent goes to pay the actual costs to providers in complying with the E911 service requirements established by the FCC regulations. State law gives a broad definition of providers' reimbursable expenses. According to MISS. CODE ANN. Section 19-5-333 (2) (c) (i) (1972), reimbursable expenses include those "incurred for designing, upgrading, purchasing, leasing, programming, installing, testing or maintaining all necessary data, hardware and software required in order to provide such service as well as the incremental costs of operating such service."

No more than two percent of the money allocated to the CMRS Fund is allowed for administrative expenses of the board. The CMRS Board retains all the interest generated by the entire CMRS Fund.

## Emergency Communications District Distribution Process

**The remainder of the money in the CMRS Fund (not less than seventy percent) is to be distributed to local emergency communications districts for use in providing wireless E911 service.**

MISS. CODE ANN. Section 19-5-333 (2) (c) (ii) (1972) requires that the remainder of the funds (not less than seventy percent) be distributed to the local emergency communications districts for use in providing wireless E911 service. This is in line with FCC requirements to provide a cost recovery mechanism for PSAPs in meeting the wireless E911 mandates. State law requires that the ECDs spend the money "for use in providing wireless E911 service, including capital improvements, and in their normal operations" [MISS. CODE ANN. Section 19-5-333 (2) (c) (ii) (1972)]. The CMRS Board's regulations stipulate that disbursements to the county emergency communications districts be made ten business days after the end of the month in which providers are to pay the CMRS Fund. This basically gives wireless providers thirty days to pay the previous month's surcharges. However, as noted on page 12, the CMRS Board has no direct oversight authority over the local ECDs, nor are there statutory guidelines to define what constitutes use of the funds "in providing wireless E911 service."

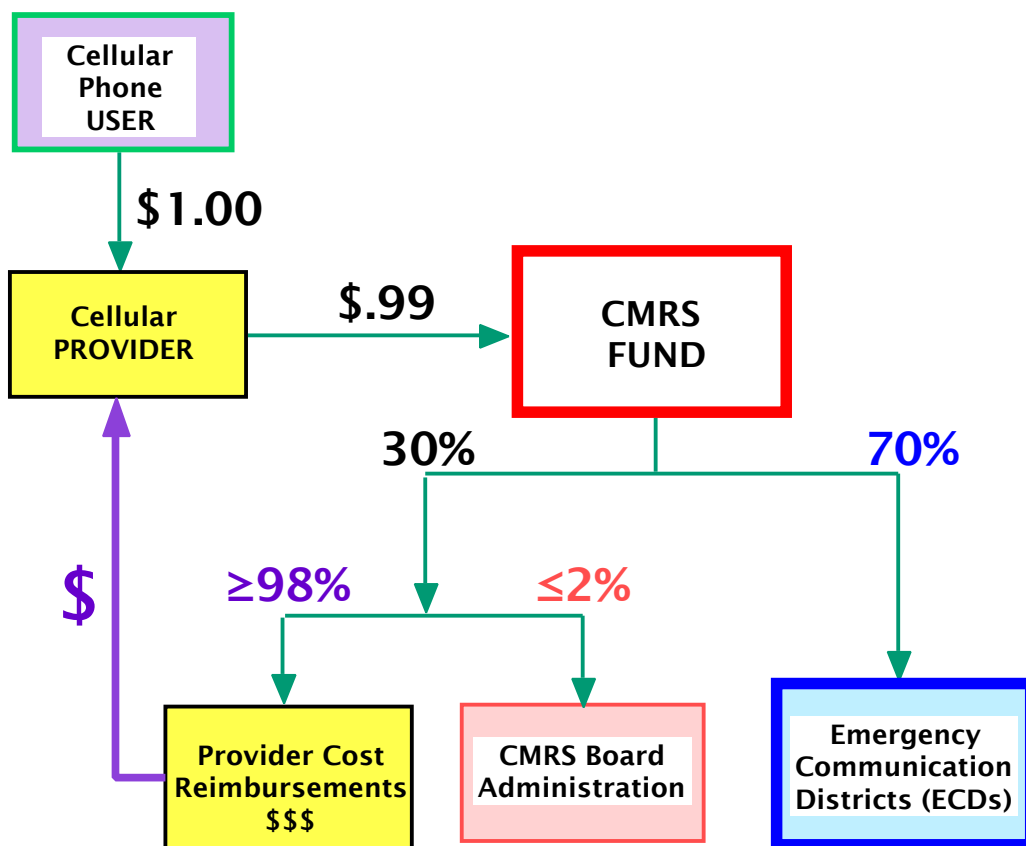
**The Attorney General's office has opined that ECDs' spending of these funds is appropriate if it is used is to shorten "the response time between a citizen's call for assistance and the response of the proper officials."**

As with wireless E911 funds, no statutory guidelines for use of the wireline monies are explicitly stated. In the absence of specific statutory guides, many ECDs have relied on official opinions issued by the state Attorney General's office. ECDs have used these opinions, interpretations of state law written in response to questions from local officials, to help determine what constitutes appropriate spending of wireline surcharge funds. When a county has an emergency wireline telephone surcharge in place, Mississippi law gives the ECD board of commissioners authority over the money. The Attorney General's office does not make fact determinations in official opinions, nor will the office issue an opinion on actions already taken. The Attorney General's office, however, has opined that spending could be considered appropriate if the purpose of using wireline E911 money is to shorten "the response time between a citizen's call for assistance and the response of the proper officials."

The Attorney General has issued opinions concerning the use of surcharge funds for dispatchers' salaries, improvements to the physical facility housing dispatchers, and the purchase of equipment necessary for responding to and dispatching of 911 calls. ECD commissioners, however, must first document in their official minutes the necessity for the spending for E911 purposes. To date, the office has not issued an official opinion on what constitutes "use in providing wireless E911 service,

including capital improvements, and in their normal operations" [MISS. CODE ANN. Section 19-5-333 (2) (c) (ii) (1972)].

**Exhibit 1: Schematic of Collection and Distribution System**



SOURCE: Compiled by PEER.

**CMRS Fund Revenues and Expenditures**

The CMRS Board is bound by statute to collect surcharge funds from providers into the interest-bearing CMRS Fund. Since April 1998, the board has collected a total of \$22,508,542. For Fiscal Year 2001, the board collected \$8.8 million, of which nearly \$6.2 million went to the local emergency communications districts. The 2001 collections were a nearly ten percent increase over Fiscal Year 2000

and a fifty-seven percent increase over Fiscal Year 1999, the first year of operation. (See Exhibit 2, below.)

**Exhibit 2: CMRS Board Revenues and Expenditures (FY 1999–FY 2001)**

	Year Ending June 30, 1999*	Year Ending June 30, 2000*	Year Ending June 30, 2001**
<b>Receipts:</b>			
CMRS Receipts	\$5,631,061	\$8,044,613	\$8,832,868
Interest Received	\$23,456	\$139,407	\$294,174
Surcharges Collected - 2%			\$56,611
<b>Total Receipts</b>	<b>\$5,654,517</b>	<b>\$8,184,020</b>	<b>\$9,183,653</b>
<b>Expenditures:</b>			
Distributions to Counties (70%)	\$3,941,777	\$5,631,229	\$6,183,008
Administrative Expenses (≤2%)	\$12,098	\$36,228	\$35,174
<b>Total Expenditures</b>	<b>\$3,953,875</b>	<b>\$5,667,457</b>	<b>\$6,218,182</b>
<b>Total Receipts Over Expenditures</b>	<b>\$1,700,642</b>	<b>\$2,516,563</b>	<b>\$2,965,471</b>
Less: Administrative Reserve	\$21,654	\$33,694	
Less: Undesignated (Interest)	\$23,456	\$139,407	\$294,174
<b>Available for Provider Reimbursement (≥28%)</b>	<b>\$1,655,532</b>	<b>\$3,998,994</b>	<b>\$6,670,291</b>

\* Audited financial statements.

\*\* Unaudited financial statements.

SOURCE: CMRS Board financial statements.

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## Weaknesses in Implementation of an Effective Wireless E911 System in Mississippi

Because the CMRS Board lacks express statutory authority to audit providers, oversee emergency communications district spending, and effectively coordinate implementation through providers, the board does not have the tools necessary to implement an effective wireless E911 system in Mississippi.

### Accuracy of Surcharge Collection and Distribution

*State law does not authorize the CMRS Board to require registration of wireless providers furnishing service in Mississippi, to verify the amount providers are paying, to charge interest to providers tardy in remitting the surcharge, or to initiate collection proceedings against providers. These factors hinder the CMRS Board in accurate collection and disbursement of surcharge funds.*

The CMRS Board depends on the surcharge money from providers to finance its operations, cost recovery, and local emergency communications districts' implementing wireless emergency telephone service. However, state law does not require wireless providers supplying service in Mississippi to register with the CMRS Board or any other state entity. Thus the possibility exists that providers who furnish service in Mississippi are not collecting and remitting the surcharge. Moreover, state law does not give the CMRS Board or any other state entity the authority to audit providers and confirm whether the paying providers are paying for each cellular telephone connection as required by law.

Not only is the CMRS Board unable to verify the identity of all providers delivering wireless telephone services in Mississippi, it is also unable to verify that the providers are sending all the money they are required to send. This means the CMRS Board cannot be sure cost recovery efforts and local emergency communications districts receive all the monies to which they are entitled. The inability to charge interest or to initiate collection proceedings against providers late in paying surcharge funds hampers the board's accurate distribution of funds to both local districts and providers.

## Accuracy of Surcharge Collections

*The CMRS Board does not verify the identity of all providers delivering wireless service in Mississippi and which are thus subject to collecting the one dollar wireless surcharge for each connection. The board is not authorized by law to verify the number of subscribers (connections) as reported by the providers. Therefore, the CMRS Board cannot be sure it is receiving all monies due from all providers under Mississippi law.*

**Because state law does not require wireless providers supplying service in Mississippi to register with the CMRS Board or any other state entity, the possibility exists that these providers are not collecting and remitting the surcharge.**

Currently, no state law requires that wireless providers register with the CMRS Board or any other state entity. While it would be possible to ascertain providers by coverage area through the FCC, in practical terms it would be extremely difficult, since the FCC has twenty different licensing systems. Providers may not hold FCC licenses in the name used to market services to the public. Boundaries for different FCC service areas across state and local government boundaries, which complicates determining how much Mississippi service area a particular provider may supply. Therefore, the CMRS Board has no reasonable method by which to verify providers furnishing wireless service in Mississippi. The lack of registration means neither the CMRS Board nor the counties know for certain the identity of all providers, their capability to provide E911 service, nor whether all who deliver service in the state are collecting and remitting the one-dollar wireless surcharge. This is critical information to the state's efforts to participate in the implementation of wireless E911 service throughout the state.

In surveying the laws and regulations of eight other southeastern states, PEER identified one state that has an innovative system in place. Georgia requires all cellular providers to register with the state Emergency Management Agency, which is the agency that houses the state's 911 coordination effort. The information that must be provided includes the name, address, and phone number of the wireless representative for the state; the counties in which the wireless provider is providing service; and all corporate names that the provider uses in the state. This allows the state to have a contact person for all E911 coordination efforts, which has been a concern in Mississippi. Many 911 coordinators do not know what providers are located in their counties and are therefore unable to ensure 911 service provisions of all wireless carriers.

Furthermore, the board has no practical mechanism to audit providers to assure that the providers are reporting the correct number of subscribers and thus remitting appropriate amounts for all subscribers as required by law.

In surveying the laws and regulations of other southeastern states, PEER identified states that allow the wireless 911 boards to conduct audits of the service providers and the local 911 agencies. The laws and regulations of these states provide detailed information as to acceptable expenditures for the wireless 911 fund monies. A good example of this law is a Kentucky statute that provides the following:

*To retain, with approval by the Auditor of Public Accounts, an independent certified public accountant who shall audit, once every twenty-four (24) months, the books of the board, CMRS providers, and PSAPs eligible to request or receive disbursements from the CMRS fund under KRS 65.7631 for the following purposes:*

*(a) To verify the accuracy of collection, receipts, and disbursements of all revenues derived from the CMRS service charge and the number of wireless E911 calls received by each PSAP eligible to request or receive disbursements from the CMRS fund;*

*(b) To determine whether the revenues generated by the CMRS service charge equal, exceed, or are less than the costs incurred in order to comply with the FCC order; and*

*(c) To determine the sufficiency of the funds currently being withheld for administrative purposes under KRS 65.7631(1).*

*The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs.*

Thus, Kentucky law empowers its CMRS Board counterpart to audit both providers and local PSAPs and to monitor receipts and disbursements.



## Accuracy of Distributions to Local Districts

*The CMRS Board does not have policies and procedures in place to provide assurance to the counties that surcharges are accurately distributed to the appropriate county, nor does it have authority to enforce collection when a provider fails to pay in an accurate and timely manner.*

**The inability to charge interest or to initiate collection proceedings against providers late in paying surcharge funds hampers the board's accurate distribution of funds to both local districts and providers.**

Each month, providers furnish the CMRS Board a county-by-county breakdown of the surcharge collected. The accounting firm for the CMRS Board uses the providers' breakdown to calculate the seventy percent amount each county emergency communications district receives. As noted earlier, however, the CMRS Board is not authorized to audit providers to assure that they pay the correct amount. If the provider makes a mistake in its calculations, state law also does not grant the CMRS Board the authority to force the provider to pay the correct amount. In its review, PEER identified one situation in which this lack of authority created a problem for the county seeking to recover surcharge payments incorrectly paid by a provider.

In DeSoto County, the 911 coordinator noticed that the CMRS Board's payments to his county were reduced significantly in 1999. The county previously had received approximately \$17,000 per month in surcharge payments. In February 1999, however, this dropped to \$1,100 for the next six months, and then went back to about \$17,000 per month in August 1999. In January 2000, the provider sent a letter to the accounting firm handling the CMRS Board's finances and admitted to a reporting error. The provider stated that while the total for a four-county area (including DeSoto County) was correct, the money had been incorrectly allocated among the counties. Since the board's accounting firm is merely a disbursing agent, the districts receive the distribution as calculated by the provider. In this instance, the CMRS Board sent the wrong amounts to each of the four counties, based on the provider's calculations. Therefore, the mistake meant both DeSoto and Tunica counties were underpaid while Marshall and Tate counties were overpaid.

DeSoto County sought assistance from the state CMRS Board to recover the money and was told that the board lacked express authority to demand the correct payments. DeSoto County received the proper amount from the provider only after the county's board attorney intervened and demanded payment. The CMRS Board received \$110,000 from the provider and remitted the appropriate amount to the county in May 2000 to correct the underreporting of surcharge funds.

PEER contacted the provider to determine the outcome for the remaining counties. The provider did not request repayment of funds from Marshall and Tate counties because it determined no proper mechanism was in place for recoupment of funds. Also, Marshall County disputed the allegation that the county had been overpaid. In conjunction with Marshall County officials, the provider determined customer allocation problems existed and that it had underpaid Marshall County. The provider made a one-time adjustment to Marshall County for \$23,685 to clear the underpayments. Tunica County received a one-time adjustment from a provider of \$6,225.45 for payment of underreported funds.

### **Providers Not Liable for Interest on Late Payments**

*The CMRS Board has no authority to charge interest to providers who fail to pay on time.*

Mississippi law does not allow the CMRS Board to charge interest to providers for late payments. In a survey of the laws and regulations of eight other southeastern states, PEER identified one state that allows the board the authority to sue providers who fail to pay in a timely fashion and collect penalties. Kentucky statutes allow its Commercial Mobile Radio Telephone Service Board the following authority:

*All CMRS service charges imposed under KRS 65.7621 to 65.7643 collected by each CMRS provider, less the administrative fee described in subsection (4) of this section, are due and payable to the board monthly and shall be remitted on or before sixty (60) days after the end of the calendar month. Collection actions may be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorneys' fees that are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.*

Thus the CMRS Board in Kentucky is authorized to initiate collection proceedings against providers who fail to pay outstanding balances in a timely fashion.

## Lack of Oversight Authority by CMRS Board Over Emergency Communications District Expenditures

*The lack of spending guidelines allows use of wireless E911 funds for purposes unrelated to the provision of wireless E911 telephone service. Local emergency communications districts find some direction, however, in official Attorney General's opinions that interpret wireline E911 laws.*

The lack of statewide oversight or guidelines for local ECD spending of wireless E911 money creates the risk that these funds may not be spent as intended by law or not to implement the wireless E911 system efficiently and economically.

State law requires that the emergency communications districts use CMRS surcharge money "for use in providing wireless E911 service, including capital improvements, and in their normal operations" [MISS. CODE ANN. Section 19-5-333 (2) (c) (ii) (1972)]. The original FCC order required a cost recovery mechanism for local PSAPS in order to give local governments the means to implement equipment purchases and other enhancements necessary for a wireless E911 system. The lack of statewide oversight or guidelines for local ECD spending of wireless E911 money, however, creates the risk that wireless E911 money may not be spent as intended by law or not to implement the wireless E911 system efficiently and economically.

### Reduced Response Time to 911 Call is the Measure

*Quicker emergency response times to citizens' 911 calls was the purpose behind enactment of state 911 laws and thus provides the most direct measure of whether local emergency communications districts' spending of wireless surcharge funds is appropriate.*

Currently, the primary guidance in county districts' spending of wireless E911 money comes via official Attorney General's opinions interpreting the wireline E911 statutes. To date, no one has requested an official opinion interpreting the limitations posed by the language "for use in providing wireless E911 service, including capital improvements, and in their normal operations" [MISS. CODE ANN. Section 19-5-333 (2) (c) (ii) (1972)].

The Attorney General's opinions use the specific purpose of MISS. CODE ANN. Section 19-5-301 (1972) as the basic limitation when asked to opine if a prospective plan involves appropriate use of the wireless E911 funds:

*The Legislature finds and declares it to be in the public interest to **reduce the time required for a citizen to request and receive emergency aid**, and to raise the level of competence of local public safety and 911 telecommunicators by establishing a minimum standard of training and certification for personnel*

*involved in the answering and dispatching of calls to law enforcement, fire and emergency medical services. The provision of a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained will provide a significant contribution to law enforcement and other public service efforts by simplifying the notification of public service personnel. Such a simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, quicker apprehension of criminals and, ultimately, the saving of monies. Establishment of a uniform emergency number is a matter of concern and interest to all citizens of the state. [emphasis added]*

**Equipment and capital expenditures that directly involve the answering and dispatching of emergency medical, law enforcement, or fire personnel in response to a 911 call are usually interpreted to be within the statutory purpose for use of these funds.**

As discussed earlier, the official opinions do not approve or reject a specific practice or expense. The basic premise, however, is that E911 surcharge money may be spent so long as the proposed use fulfills the purpose of MISS CODE ANN. Section 19-5-301 (1972): "to reduce the time required for a citizen to request and receive emergency aid." For instance, equipment and capital expenditures that directly involve the answering and dispatching of emergency medical, law enforcement, or fire personnel in response to a 911 call are usually interpreted to be within the statutory purpose.

Official Attorney General's opinions have found that E911 dispatchers' salaries fall within the statutory purpose, as well as renovations to a building used to house E911 equipment and dispatchers. Also, these opinions have included as appropriate expenses those purchases for equipment necessary for answering, transferring, and dispatching of emergency telephone calls originated by persons dialing 911.

## **Lack of CMRS Board Oversight Authority over ECD Spending**

*The CMRS Board lacks statutory authority to oversee spending of county emergency communications districts.*

Because the statute does not specify the board's role on this issue, the CMRS Board does not communicate with the emergency districts on appropriate spending measures for wireless E911 funds or develop uniform controls to assure that wireless E911 funds are correctly spent. The state Department of Audit has no special guidelines for counties in the handling of wireless E911 funds, although most emergency communications districts contacted by PEER maintain wireless surcharge funds in an E911 fund that is separate from other county monies.

The CMRS Board does not have statutory authority over local district spending for wireless E911 implementation, nor do any spending guidelines exist for emergency communications districts. In the counties PEER visited, most maintained wireless E911 funds and wireline E911 surcharge funds (if the county has a wireline surcharge in effect) in the same account.

## Use of District Funds for "Unrelated" Purposes

*At least two of the ten districts reviewed by PEER have not been spending wireless E911 funds for items directly related to providing wireless E911 service. Although one of the districts has recently halted the practice, the other has continued to spend in this manner.*

One result of the lack of oversight and control is that some local districts may not have spent money for "providing wireless E911 service," as required by state law. In at least two instances, E911 funds may not been used in the manner contemplated by statute.

### One county is using wireless E911 funds to pay for an emergency operations center from which no E911 dispatching takes place.

PEER reviewed the receipts and expenditures of the Emergency Management District in Forrest County from Fiscal Year 1998 to present. According to district records, wireless E911 funds have been used to retire a county-backed, general obligation bond issue from 1994 used to build an emergency operations center from which no E911 dispatching activities take place. Opinions issued by the Attorney General's office since 1995 hold that county emergency communications districts lack the statutory authority to hold title or purchase real property. Therefore, the Emergency Management District should not have spent the wireless E911 money for the land and building.

**The Forrest County Emergency Management District has spent wireless E911 funds to purchase floral arrangements, a YMCA membership, and staff vaccinations.**

Furthermore, a review of district expenditures shows purchases of numerous floral arrangements, a monthly family membership at the local YMCA, and staff vaccinations against influenza, among other items, were made from district funds, which include wireless E911 money. Such expenditures are neither used "in providing wireless E911 service" or to "reduce the time required for a citizen to request and receive emergency aid."

Jackson County used wireless E911 funds to pay a citizen chairman of its ECD.

**The Jackson County ECD has halted its former practice of paying a chairman's monthly stipend.**

The former chairman of the Jackson County Emergency Communications District, a citizen appointee, was paid a \$1,200 monthly stipend, a practice halted after issuance of a state Attorney General's opinion stated the district lacked authority under Mississippi law to pay such a stipend.

## **The CMRS Board's Administrative Expenditures are Within Statutory Spending Limits**

***Since the CMRS Board's creation, its expenditures have not exceeded the two percent limit established by law and the two percent allotment for CMRS Board administrative costs appears reasonable.***

By statute, the CMRS Board retains up to two percent of the surcharge for administrative expenses, or \$56,611 for Fiscal Year 2001. The board also retained interest income of \$294,173 from the entire CMRS Fund, for total gross earnings of \$350,785 for FY 2001. The majority of the board's administrative expenses are accounting services for administration of the fund--\$31,430, or eighty-nine percent of the board's total administrative expenses. Other major costs include the annual audit, legal representation by the Attorney General's office, and reimbursement for CMRS Board members' travel expenses. All administrative expenses totaled \$35,174 for FY 2001. (See Exhibit 2, p. 17.)

The two percent allotment for administrative expenses is reasonable, based on PEER's survey of the statutes and rules of similar boards in seven other southeastern states. Five states, either by statute or administrative rule, limited the amount that could be spent on administrative expenses, in a range from one percent to three percent of the total surcharge states receive. Two states limited board administrative expenditures to three percent; one to two and one half percent; while Florida, like Mississippi, settled on two percent as a limitation on board administrative expenses.

## The CMRS Board's Administration of the Provider Cost Recovery Process

*The CMRS Board lacks statutory authority to coordinate the effective and efficient implementation of wireless E911 capability through the wireless providers' cost recovery process.*

**The current wireless E911 system lacks a centralized planning and coordination component between providers and local emergency communications districts.**

Twenty-eight percent of the collected surcharge forms the available pool of funds to reimburse providers' costs in implementation of wireless E911 capability. Although the CMRS Board has in place administrative rules and regulations to handle providers' cost recovery requests, effective and efficient statewide implementation is stymied because the current system lacks a centralized planning and coordination component between providers and local emergency communications districts.

State law requires that providers be reimbursed their "actual costs" for implementation, based on sworn invoices [MISS. CODE ANN. Section 19-5-333 (1972)]. CMRS Board rules, however, require providers to submit cost recovery plans for approval *before* implementation. While no specific statutory authority exists for CMRS Board approval of providers' plans in advance of implementation, an official Attorney General's opinion stated that the CMRS Board has statutory authority to make rules that included certain requirements be met before a wireless provider was entitled to reimbursement. Also, the opinion stated that the CMRS Board could refuse reimbursement of costs associated with a plan not approved in advance by the CMRS Board.

*The board maintains a subcommittee to evaluate providers' cost recovery requests.*

The CMRS Board maintains a five-member technical, or cost recovery, committee to review the providers' submissions. One CMRS Board member sits on the technical committee. Three of the five current committee members are employees of wireless providers. This committee evaluates and recommends to the board approval or denial of a provider's cost recovery request. Mississippi law requires a majority vote of the CMRS Board before a provider's cost reimbursement request is approved. Further, the CMRS Board is prohibited from paying any costs unrelated to compliance with the FCC's wireless E911 order [MISS. CODE ANN. Section 19-5-333 (2) (c) (i) (1972)].

In practice, a total of five of the approximately eighteen providers have implemented Phase I wireless E911 service. Two implemented Phase I wireless E911 capability in their systems and presented the CMRS Board with their reimbursement request. One of the two carriers initially withheld \$16,000 from surcharge collections as its reimbursement for costs in implementing wireless E911 in areas it serves. Three of the five providers, however, sought CMRS Board approval of detailed plans before beginning upgrades necessary to implement Phase I deployment of wireless E911.

## **The Board's Administrative Process for Managing Cost Recovery**

*The CMRS Board's rules for handling providers' cost recovery requests do not effectively provide for participation of emergency communications districts, nor do the rules contain sufficient standards to guide board action. The absence of standards could hamper efficient deployment of wireless E911 capability throughout the state.*

Under CMRS Board rules, providers develop implementation plans when an emergency communications district requests such. The board's rules on providers' cost recovery further require that providers:

- *Develop an implementation plan*--The provider must develop an implementation plan for the requesting ECD or for a service area if the provider serves more than one ECD area. The board's rules have no further provisions, however, for situations in which a provider serves more than one ECD. Most providers serve more than one ECD in Mississippi.
- *Submit the plan with cost information*--The provider submits the plan, with cost information, to the requesting ECD for concurrence. Once the ECD accepts the plan, the CMRS Board's rules require both the ECD and the carrier to present the implementation plan to the CMRS Board. Again, the rules do not mention the role of multiple ECDs if the provider serves more than one emergency communications district.
- *Submit "substantive cost structure changes"*--Upon the CMRS Board's approval of the provider's plan, no additional presentations to the board are required unless "substantive changes in cost structure" occur. The providers submit notice of additional E911 service implementation and costs incurred by certified mail to the board. No examples of what constitute substantive cost structure changes are included in the rules.



- *Notification to providers*--The CMRS Board notifies providers by certified mail of approval or denial of cost recovery plans. Providers must receive notice of denial within three days.
- *File claims for costs*--Upon approval of a cost recovery plan, the provider may file claims for reimbursement with the CMRS Board for non-recurring costs and recurring costs.
- *Request any adjustment in reimbursement rates*--Providers may request an adjustment in their reimbursement rate "at any time upon written notice to the Board." The board's rules do not have any additional provisions for dealing with such a request, including what constitutes grounds for denial of a provider's plan.
- *Execution of contract*--Upon approval of a cost recovery plan, the CMRS Board rules call for execution of a "model contract" between the board and the provider, with the approved plan attached. No provision exists, however, for participation in or notification of the contract and its provisions to the local districts. Moreover, the rules do not include a definition of what constitutes a "model contract."

Since August 5, 1998, the board has approved five applications from providers seeking reimbursement of their costs associated with E911 improvements, for a total of \$894,243.09. (See Exhibit 3, page 30.) This totals \$702,113.28 in one-time expenses and \$192,129.81 in recurring expenses reimbursed to providers.

**Thirteen of the state's eighteen wireless providers have yet to submit cost recovery plans for CMRS Board consideration.**

As of June 30, 2001, about \$6.6 million was available for providers' cost recovery. The fund appears deceptively large because the five providers have yet to submit the sworn invoices for completed work. About thirteen providers have yet to submit plans for the CMRS Board's consideration.

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**Exhibit 3: Provider Reimbursement Revenue and Expenditures  
(As of June 30, 2001)**

	<u>Total</u>
<b>Reimbursement Revenue Available</b>	<b>\$6,670,291</b>
<b>Provider Reimbursement Expenditures:</b>	
<b>One - Time Expenses</b>	<b>\$702,113</b>
<b>Recurring Expenses</b>	<b>\$192,130</b>
<b>Total Reimbursement Expenditures</b>	<b>\$894,243</b>

SOURCE: CMRS Board.

### **Evaluation of Provider Reimbursement Requests**

*The CMRS Board has no written standards by which to judge providers' cost recovery plans, nor does it have access to professional staff to assist in reviewing providers' plans and projected costs, thereby hampering the board's ability to oversee providers' implementation of wireless E911 in the state.*

Although the CMRS Board has rules governing the procedure providers follow to submit their plans to provide wireless E911 service and their reimbursement requests, the board has no standard criteria by which to evaluate the plans and the expenses. At least eight of ten southeastern states maintain or have access to professional staff to analyze providers' plans and requests for cost reimbursements. Upon a request for such assistance by a board member, the board attorney stated that the CMRS Board lacked the statutory authority to hire outside staff.

**The fact that wireless provider employees sit on the cost recovery subcommittee, with no standards or criteria by which to judge the applications, creates the risk of the appearance of impropriety in their recommendations.**

The lack of professional staff for the CMRS Board and standard criteria by which to judge providers' reimbursement plans hamper the board's ability to analyze effectively a provider's plan or cost reimbursement request. Of the five cost recovery subcommittee members, three are employed by wireless providers. One of the three wireless employees is an engineer. All serve as volunteers without compensation and the review process can be time-consuming. The fact that wireless provider employees sit on the committee, especially with no standards or criteria by which to judge the applications, creates the risk of the appearance of impropriety in their recommendations.

**Because the subcommittee does not maintain minutes of its deliberations or actions, no record exists with which to evaluate its recommendations.**

So far, only about one-third of the approximately eighteen wireless providers in Mississippi have filed cost recovery plans with the CMRS Board. Further, the committee does not maintain minutes of its deliberations or any actions; therefore, no record exists to evaluate the committee's recommendation on any plan.

*The board has refused to approve provider costs it considered excessive.*

The committee, however, does not merely "rubber-stamp" providers' cost recovery plans or reimbursement requests. At a recent board meeting, the committee refused to recommend acceptance of a provider's plan because it contained duplicative engineering costs. The provider had discharged its first engineering contractor and hired another to complete the job. The provider sought reimbursement for expenses associated with the first firm's work, which the board refused to do. Mississippi law, however, does require reimbursement of a providers' "actual cost" rather than the FCC standard of reimbursing providers' "reasonable costs."

## **The CMRS Board's Accountability on Financial Audit and Reporting Requirements**

*The CMRS Board has not conducted timely annual audits, nor has it reported to the Legislature, as required by law. Also, the board has not conducted a statutorily required cost study designed to compensate providers for actual costs incurred in meeting the FCC wireless E911 mandates. Furthermore, the board is not in full compliance with several recommendations by outside auditors in the FY 1999 audit.*

### **The Board Has Not Complied with Its Statutory Audit Requirement**

*For three years, the CMRS Board has been late in completing an independent, third-party audit, required to be performed within sixty days of the end of each fiscal year. The board also has not reported to the chairs of the Senate and House public utilities committees.*

As noted on page 10, MISS. CODE ANN. Section 19-5-333 (2) (d) (1972) requires that the CMRS Board retain an independent third party to audit all collections and disbursements each year. The statute requires that the audit be complete within sixty days of the end of the state fiscal year, or by August 30 of each year.

The FY 1999 audit was not completed and presented to the board until the February 2000 meeting of the CMRS Board. The FY 2000 audit was not completed and presented to the CMRS Board until July 18, 2001. The audit for FY 2001, due under state law by August 31, 2001, had not yet been completed as of October 1, 2001.

Neither chairman of the public utilities committee in either the House of Representatives or the Senate had received any report from the CMRS Board, as required by statute, until PEER raised the issue and copies of FY 1999 and FY 2000 audit reports were forwarded to the chairmen of the public utilities committees.

### **The Board Has Not Conducted the Statutorily Mandated Cost Study**

*The board has not conducted the cost study required by statute.*

State law required the CMRS Board to conduct a cost study before October 1, 1999, with the objective of adjusting the distribution formula to reflect providers' actual costs in complying with the FCC's wireless E911 mandate [MISS. CODE ANN. Section 19-5-333 (2) (e) (1972)]. As of September 2001, the board had not completed the cost study.

One board member stated that the board did not perform the cost study because at the time, only one cost recovery application was pending. The board's intent was to wait until it received more applications in order to do a comparison study. With five approved applications, the CMRS Board could now perform a comparison study and submit its recommendations for adjustment in percentages to the Legislature.

### **Lack of Board Compliance With All of Auditors' Recommendations**

*The CMRS Board has not fully complied with all administrative improvements, including internal control measures, recommended in its FY 1999 audit. These recommendations included documenting official actions.*

While independent auditors issued an unqualified opinion in the FY 1999 CMRS Board audit, the auditors presented a "client advisory letter" that listed areas for improvement in internal controls.

The following paragraphs list actions that the auditors recommended to the CMRS Board, followed by the board's response (or lack of response).

- *Give notice to make checks payable to the CMRS Fund and segregate accounting responsibilities*--Auditors recommended that the CMRS Board circulate a notice to all providers to make checks payable to the CMRS Fund, to obtain a post office box for all CMRS correspondence, and to separate the internal control structure so that incoming receipts and deposits are delegated to someone outside [regular] bookkeeping personnel. Checks had been payable to the accounting firm or a firm shareholder, which auditors deemed created the risk of misappropriation.

The board changed responsibility for incoming receipts and deposits to conform to the auditors' recommendations and the board now has its own post office box. Although the board's accounting firm notified all carriers to make remittances payable to the "CMRS Fund," some providers continue to list the accounting firm as the payee.

- *Establish provider database*--The auditors also recommended that the board establish a provider database that includes personal contact information for each provider, because the auditor had difficulty confirming payment from carriers. The existence of such a database would also provide the board with the means to communicate with providers concerning legal changes and other news.

The accounting group has not built a database of information on providers operating in Mississippi. Some providers have not responded to the board's repeated requests for information, including corporate name and the name in which the provider may be marketing wireless service to the public, a telephone number, and the name of a company representative.

- *Maintain an official minute book*--Auditors recommended the board maintain "an official minute book containing signed copies of the approved minutes and the related attachments which are referred to or made a part of the minutes." The letter also advised that the board "designate a specific party or person responsible for maintaining those official minutes."

PEER found that the minutes, as maintained by the accounting firm, were frequently unsigned or lacked

relevant attachments, such as correspondence between the board or county emergency communications districts and providers, or even official Attorney General's opinions issued to the board. Some relevant documents were catalogued separately but were not maintained with the minutes. Also, the CMRS Board accountant does not have the official minutes for the first year of the board's operation. These minutes, which are state records and should be available for public review, are in the custody of the first board secretary, who resigned in 1999.

The failure to maintain an official minute book with relevant attachments calls into question the validity of the board's actions. A corporate entity, such as a board or commission or a private company, speaks only through its minutes, which must be signed in order to be valid. Otherwise, any official action by the board can be called into question. The risk is great for the CMRS Board because it acts on behalf of the public in securing up-to-date emergency communications capacity for the state's citizens.

- *Attorney General's opinion on retention of interest*--The auditors recommended that the CMRS Board obtain an official Attorney General's opinion that the board's practice of retaining interest generated by the CMRS Fund interest is appropriate. The CMRS Board's attorney also recommended that the board seek the Attorney General's official opinion on this practice in a December 1999 letter.

The CMRS Board did not request an official Attorney General's opinion until September 19, 2001, after PEER had repeatedly requested documentation of the board's practice to retain the interest funds, which totaled \$457,037 as of June 30, 2001, the total for FY 2001.

- *Recover \$16,000 from provider*--The auditors recommended that the board take action to obtain a balance due of \$16,000 from a provider which withheld that amount from its surcharge remittance to pay for E911 upgrades. This provider did not follow state law and the CMRS Board's procedure to submit its cost recovery plans to the board *before* implementation of Phase I wireless E911 service.

The board did seek and receive the \$16,000 from the provider who had prematurely implemented Phase I wireless E911 service.

- *Collateralize state deposits in excess of \$100,000--*  
Auditors recommended that the state obtain collateral from the bank for the amount of its deposits in excess of Federal Deposit Insurance Corporation (FDIC) coverage of \$100,000. This protects the state and the CMRS Board in the event the bank suffers collapse.

As of June 30, 2001, the CMRS Board had \$7.7 million on deposit in the CMRS Fund. All CMRS funds over \$100,000 are collateralized as recommended by the auditors and required by state law [MISS. CODE ANN. Section 27-105-5 (1) (1972)].

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# The CMRS Board's Coordination of Wireless E911 Implementation

**The CMRS Board has not coordinated implementation of the E911 system by informing and educating local officials about state and federal law requirements, providers' responsibilities under state and federal law, and the districts' role in ensuring wireless E911 access.**

For a system's implementation to be effective, participant responsibilities should be clear and communicated in a timely manner so that appropriate action may be taken when and as necessary. As the entity responsible for coordinating implementation of the state's wireless E911 system, the CMRS Board has the obligation to inform and educate local officials as to state and federal requirements regarding implementation of phases of wireless E911 throughout the state.

The process begins at the grass roots level when the local administrator for the Public Safety Answering Point (PSAP) requests that the cellular provider furnish wireless E911 service [MISS. CODE ANN. Section 19-5-339 (1972)]. Before so doing, however, the following must take place:

- The PSAP must be capable of receiving and utilizing the data elements associated with the service.
- Funds must be available for cost recovery.
- The local exchange carrier must be able to support the wireless E911 system. This mirrors the federal regulation that also requires PSAP administrators to request providers deploy wireless E911 service.

**Because the CMRS is a volunteer board and has no staff support other than its contract accountants, it has difficulty maintaining ongoing communication with local E911 officials.**

The Mississippi CMRS Board is an all-volunteer board; members receive no compensation beyond travel expenses. As noted earlier, it has no staff support beyond that provided by its accounting firm. This makes it difficult to institute and maintain an ongoing communication process with local E911 officials, a process that includes education of local officials.

In a survey of the laws and regulations of other southeastern states, PEER determined that seven of eight states have staff to assist in coordination and education for the local E911 entities. The various state boards have either the authority to employ staff and consultants with



expertise or the capability to rely on staff in an existing state agency. These staff members provide coordination and education services for wireless providers, emergency communications districts, and PSAPs.

For example, in Florida, the Department of Management Services provides two staff members to the Wireless 911 Board. These staff members provide a range of support from collections and disbursements of wireless 911 funds to scheduling all meeting arrangements, maintenance of board minutes, verification of payment schedules, and acting as a primary contact for the wireless carriers. The Florida staff also audit the PSAPs when issues arise regarding inaccurate reporting by wireless carriers.

The Florida board also contracts with an independent accounting firm to track all payments, look for trends or abnormalities in provider payments, and conduct the audit for the 911 board's annual report. Currently, the Mississippi CMRS Board does not utilize any staff or consultants beyond its contract accountants and auditors and a representative of the state Attorney General's office.

## The CMRS Board's Responsibilities to Inform and Educate

*The CMRS Board has not informed and educated local emergency communications districts concerning their responsibilities for system implementation. The lack of communication has resulted in confusion over responsibilities under state and federal law and local districts' role in designing and implementing wireless E911 systems throughout the state.*

### Local Requests for Provider Service

*The CMRS Board has not distributed copies of its rules and regulations to local emergency communications districts.*

Because the CMRS Board does not regularly communicate with the local emergency communications districts, local 911 personnel may be unaware of wireless E911 requirements in state law and their role in the implementation process. In some cases, this results in the inability of providers to implement wireless E911 service effectively. PEER found that at least one county 911 coordinator did not know that she was required to request in writing that providers deploy wireless E911 service. PEER found letters from providers to the county district, stating their ability to provide wireless E911 service upon request. It was not until PEER informed the coordinator of the request requirement that the coordinator was aware of MISS. CODE ANN. Section 19-5-339 (1972).

During PEER's site visits, E911 coordinators and administrators expressed frustration with the state CMRS Board's lack of communication with the local districts. One particular concern is the board's role in approving provider plans for deployment of E911 service. The CMRS Board's rules and regulations have never been circulated to county districts; one coordinator only received the board rules after requesting them and coming to Jackson to obtain a copy. At least one county has halted efforts to pursue additional providers' deployment of wireless E911 after being informed that the CMRS Board would now handle all wireless E911 negotiations with cellular providers. This confusion over roles hampers system implementation.

In conducting two site visits, PEER observed that the county 911 representatives did not understand FCC regulations regarding wireless E911 service. In one case, the coordinator approved work orders from the cellular providers with letters attached from the providers requesting the county to provide "Letters of Request" as required by state law. The coordinator, however, never wrote the letters of request. This county's equipment could accommodate Phase I wireless calls and had the capability to receive wireless E911 calls. In fact, this county was receiving some wireless 911 calls, even though the county never made a formal request to the providers to receive these calls.

*Some emergency communications districts have very limited or no capability to implement wireless 911 services.*

Local district implementation capability may be limited. Another county PEER visited has only basic 911 service and therefore does not receive any telephone number or location information on any 911 call. For example, this county does not receive the phone number and address of the wireline caller to 911. Since the county cannot receive this service, it does not have the capability to receive cellular 911 calls. Therefore this county has not requested service from cellular providers because it does not have the capacity to receive cellular E911 calls.

At least one county lacks any 911 service at all, although state and federal law designate 911 as the state emergency telephone number. This county uses the sheriff's office telephone number in lieu of a 911 center. Although the county receives CMRS funds regularly, based on the number of cellular subscribers' billing addresses in the county, the money is deposited into a special account. County officials state they are not spending money from

the account, which as of July 2001 totaled approximately \$14,000, according to the county official.

**Some rural, low-population counties may never be able to afford the cost of wireless E911 communication systems.**

Installation and maintenance of wireless E911-capable equipment at the local level appears to be a problem in implementation of a Phase I wireless E911 system. Some rural, low-population counties may never be able to afford the cost of such systems. On carrier noted that in a forty-county area in which it is ready to provide Phase I wireless E911 service, only six PSAPs had requested the service, despite notice by the provider that the service was available.

**A regional approach may provide a way to supply large numbers of cellular users with wireless E911 access.**

One possible alternative the CMRS Board might explore is the building of regional relationships among some of the more rural counties struggling with the cost and technological complexity of wireless E911 systems. This would require changes in the law to authorize the CMRS Board to initiate, develop, and enforce such a plan, but in a state with limited resources, a regional approach may provide a way to supply large numbers of cellular users with wireless E911 access.

### **No Clear Role for Local District Input during Plan Approval Process**

*While CMRS Board rules call for input by the local emergency communications districts, the rules fail to provide a clear role for district officials during the provider plan approval process.*

CMRS Board rules state that once the county district requests wireless E911 service, the carrier prepares a plan with comprehensive cost information for the district's approval or the provider's coverage area, which could be several districts. However, the board's rules do not address situations in which one provider serves multiple emergency communications districts.

If the local district approves, the provider submits its request to the CMRS Board for approval. There is no rule that addresses when the county district rejects a provider's plan and cost information, or how to make the local district's input on the provider's plan known to the CMRS Board during deliberation of a provider's cost recovery plan. If the CMRS Board accepts the plan, the board's rules call for the board and carrier to execute a contract with the provider's wireless E911 plans attached. No provision exists to circulate the board's approved plan (or any of the plans) to local districts to ensure that the plan meets the local districts' needs.

## Collection of Information on Status of Local Implementation

In order for implementation to be well coordinated and achieve the desired results, the coordinating entity should have accurate and detailed information on the status of providers' wireless E911 services and PSAP capabilities throughout the state. This information is critical in deciding the deployment of resources and determining the most efficient use of funds in achieving its purpose.

Currently, neither the CMRS Board nor wireless providers in Mississippi make information available to the public or districts on the status of wireless 911 in the state (e.g., such as a public website so that cell phone users can check E911 coverage). Cellular providers only provide coverage maps. Seven of eight southeastern states PEER surveyed serve as the coordinating body responsible for establishing and maintaining that state's wireless 911 system. Six of the eight states provide detailed information on Internet websites on the status of implementation of wireless 911 statewide.

***Currently no mechanism exists in state law or practice for determining status of wireless E911 access throughout the state; therefore, there is no way to assure that the system meets the needs of the local districts or the state as a whole in complying with the federal mandate.***

It would be difficult to describe the status of Mississippi counties' wireless E911 capability without a county-by-county survey. Neither the CMRS Board nor any other entity is vested with the authority and responsibility for determining status. There is no central coordination point for the county districts, nor any other state control, as federal law preempts most state efforts to regulate wireless providers.

**Some counties are not ready to provide wireless E911 access due to a lack of clearly defined roles and responsibilities between the CMRS Board and providers, lack of knowledge of the federal mandate and its requirements, and the lack of a statewide plan.**

Some Mississippi counties are not ready to provide wireless E911 access to cellular telephone users due to a lack of clearly defined roles and responsibilities between the CMRS Board and providers, lack of knowledge of the federal mandate and its requirements, and the lack of a statewide plan.

In surveying the eight southeastern states, PEER identified six states that offer Internet websites that allow the public, as well as 911 coordinators, the ability to view the status of Phase I deployment statewide. For example, in Alabama the Wireless 911 Board website lists the carriers by counties and the status of Phase I requests and implementation.

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# Recommendations

## Recommendations for Legislative Action

### *Board Organization and Membership*

1. To help assure effective implementation of Federal Communication Commission mandates regarding access of wireless users to Enhanced 911 emergency communications services, the Legislature should amend MISS. CODE ANN. Section 19-5-333 (1) (1972) to change composition of the CMRS Board by allowing for gubernatorial appointment of a six-member board. The board would be composed of two emergency 911 administrators or coordinators, two wireless provider representatives, one user, and one at-large member. The members should be chosen one from each of five Congressional Districts as existing on January 1, 2001, except for the member chosen at-large. All board members should be appointed with the advice and consent of the Senate. The Executive Director of the Mississippi Department of Information Technology Services should serve as an ex officio member with all voting privileges.

### *Oversight of District Expenditures*

2. In order to improve board oversight over district expenditures, the Legislature should amend Section 19-5-333, Section 19-5-335, and Section 19-5-307 of MISS. CODE ANN. (1972) to:
  - Authorize the CMRS Board to develop and administer a statewide wireless E911 implementation plan to achieve the goals of FCC mandate 94-102 and subsequent federal orders regarding wireless E911.
  - Authorize the CMRS Board to procure administrative staff support contractually, as well as the services of consultants and other professionals, to achieve implementation of FCC wireless E911 requirements. Such arrangements could include contracts with the Mississippi Department of Information Technology Services for technical advisory

services (e.g., establishing assistance for the cost recovery subcommittee).

3. The Legislature should amend MISS. CODE ANN. Section 19-5-307 (1972) to provide that all emergency communications district equipment purchases, including leases or lease-purchases, for implementation or upgrade and enhancement of 911 or E911 services, be made from a products list maintained by the Mississippi Department of Information Technology Services.
4. The Legislature should amend state law to expressly allow emergency communications districts the power to enter into multi-district agreements, pursuant to a state emergency communications plan, in order to provide wireless E911 service as economically and efficiently as possible to the largest number of subscribers.

#### ***Accuracy of Surcharge Collections and Distributions***

5. To assure accurate and timely collection of surcharges, the Legislature should amend MISS. CODE ANN. Section 19-5-333 (1972) to:
  - Require all providers supplying wireless telephone service in Mississippi to register annually and upon termination of services with the CMRS Board. Each provider should provide to the CMRS Board its corporate name, the name in which it is marketing services and products to the public, name of a contact person, physical and mailing addresses, and status of E911 capability in those counties in which it provides services.
  - Authorize audit of providers to assure that each provider is remitting the one-dollar surcharge per connection per month. The audit should be conducted annually of each CMRS provider, with cost to be borne by the provider. The CMRS Board should have discretion as to whether the audit costs shall be reimbursable as part of recurring costs under the cost recovery mechanism established by the CMRS Board.
  - Authorize the CMRS Board to charge interest to providers who do not remit the surcharge within thirty days of due date. Interest will accrue from the date remittance is due. The CMRS Board should be authorized to initiate

legal action against providers who fail to remit the surcharge as and when due. Providers against whom the CMRS Board takes legal action should be liable for all attorneys' fees in such cases.

- Authorize the CMRS Board to reimburse wireless providers for the "reasonable costs" of implementing and upgrading to accommodate wireless E911 service, as outlined by the FCC in 94-102 and subsequent orders, rather than "actual costs," so that the CMRS Board will have the discretion and flexibility to determine what constitutes reasonable costs and so reimburse providers.

## **Recommendations for Administrative Action**

### ***Board Recordkeeping and Financial Management***

6. The CMRS Board should ensure that an official minute book is maintained, with signed minutes and all relevant attachments, correspondence, financial statements, and any other documentation that is the subject of board attention, discussion, or action.
7. The CMRS Board should secure the official minutes from the previous board secretary.
8. The CMRS Board should comply with statutory requirements to complete its annual audit within sixty days of the end of the state fiscal year, as required by law, and report to the chairs of the public utilities committees in each chamber of the Mississippi Legislature, as required by law.

### ***E911 System Development and Implementation***

9. Using existing resources, the CMRS Board should develop its own web site and post each Public Safety Answering Point (PSAP), the wireless E911 capability, and carriers who provide service in each county, so that members of the public can be aware of where wireless E911 service is available. The board should also post its administrative rules and regulations on the web site.

***Oversight over ECD Spending***

10. The State Department of Audit should develop guidelines to assist emergency communications districts in the appropriate spending of wireless E911 monies, with the parameters of official Attorney General's opinions in mind as spending limitations.



## Appendix: Mobile Radio Board Composition in Southeastern States

State	Board Name	Board Composition
Alabama	Commercial Mobile Radio Service Board (Wireless 911 Board)	7 members: 5 appointed by the Governor (2 recommended by the Emergency Communication Districts, 2 recommended by CMRS providers licensed to do business in AL, 1 recommended by the State Auditor); 1 member of the House appointed by the Speaker of the House; and 1 member of the Senate appointed by the Lieutenant Governor.
Arkansas	CMRS Emergency Telephone Service Board	5 members: the Auditor of the state or his designee; 2 representatives selected by majority of the commercial mobile radio service providers licensed to do business in the state; and 2 911 system employees selected by a majority of the public safety answering point administrators in the state
Florida	Wireless 911 Board	7 members: 1 is designated by Secretary of the FL Department of Management Services (chair of the Board); 3 appointed by Governor who are County 911 Coordinators; 3 appointed by Governor who are from the wireless telecommunications industry
Georgia	Governor's 911 Advisory Committee	12 members: Director of Emergency Management; Commissioner of Administrative Services or designee; 10 appointed by the Governor: 3 from nominees of the Georgia Municipal Association, 3 from nominees of the Association of County Commissioners of Georgia, and 4 experienced in and involved in the management of emergency telephone industry systems.
Kentucky	Commercial Mobile Radio Service Telecommunications Board	8 members appointed by the Governor: 3 shall be employed by or representative of the interest of CMRS providers; 1 shall be mayor of a city of the first or second class or urban-county government or designee containing a PSAP; 1 nonvoting appointed from a list of local exchange landline telephone companies' representatives submitted by KY Telephone Association; 1 appointed from list of candidates submitted by KY Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police or designee and the CMRS emergency telecommunications administrator are also members.

Mississippi	Commercial Mobile Radio Service Board	5 members: Two nominees from the Mississippi Association of Commercial Mobile Radio Service providers; one nominee from the Southern Public Service Commission District chosen through the National Emergency Numbering Association (NENA); one nominee from the Central Public Service Commissioner District chosen from the Mississippi 911 Coordinators Association; and one nominee from the Northern Public Service Commission District from the MS Chapter of the American Association of Public Safety Communication Officers (APCO).
North Carolina	Wireless 911 Fund Advisory Board	13 Members: 2 members appointed by the Governor, one upon the recommendation of the League of Municipalities and one from recommendation of the Association of County Commissioners; 5 appointed from recommendation of the Speaker of the House, one who shall be a sheriff, 3 representing CMRS providers licensed to do business in NC, and one representing the Association of Public Safety Communications Officials; 5 appointed from recommendation of President Pro Tempore of the Senate; one who shall be a chief of police, two representing CMRS providers licensed to do business in NC, one representing local exchange carriers licensed to do business in NC, and one representing the National Emergency Number Association; and the Secretary of Commerce or Secretary's designee
Tennessee	Emergency Communications Board (includes wireless)	9 members: 1 appointed by Governor who has no connection with emergency communications districts and who does not fulfill any other requirements for the board; the comptroller of the Treasury or designee; 1 appointed by Governor who is representative of county government and nominated by the TN County Services Association; 1 appointed by Governor who is representative of city government and nominated by the TN Municipal League; 5 appointed by Governor who shall be either current directors of ECDs or current members of ECD board of directors, nominated by the TN Emergency Number Association or the ECDs. No more than 2 shall be residents of the same congressional district.

Texas	Commission on State Emergency Communications (includes wireless)	12 members: 3 ex-officio--Executive Director of Public Utility Commission or designee; Executive Director of General Services Commission or designee; Commissioner of Public Health or an individual responsible for poison control network; 9 appointed--Lt. Governor and Speaker of the House shall each appoint 2 members as representatives of the general public; and the Governor shall appoint: 1 who serves on the governing body of a regional planning commission, 1 who serves as director of or is on the governing body of an ECD, 1 who serves on the governing body of a county, 1 who serves on the governing body of a home-rule municipality that operates 911 independent of the state system, 1 member who is representative of the general public.
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SOURCE: PEER analysis of state statutes and board information.

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# Agency Response

## STATE OF MISSISSIPPI COMMERCIAL MOBILE RADIO SERVICE BOARD

910 Courthouse Lane  
Greenville, Mississippi 38701

Telephone 662-335-1945

Facsimile 662-335-1151

October 16, 2001

**PEER COMMITTEE**  
Post Office Box 1204  
Jackson, Mississippi 39215-1204

**Re: Reponse to a Review of the Commercial Mobile Radio Service Board**

We appreciate the opportunity to provide a response, for inclusion with the PEER Committee Report (PEER) report, to your recommendation and/or findings. These are several brief observations we wish to make:

**A. Proposed Change in Composition of the CMRS Board**

The Board is of the opinion that technical expertise is required. While there is no objection to expanding the board to include one information technology person and one individual appointed by the governor all other appointments should remain the same.

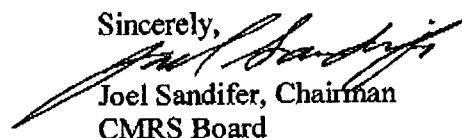
**B. Collateralization of Deposits in Excess of Federal Deposit Insurance Corporation Limits**

The funds held by BanCorp South are presently collateralized and have been for some time.

**C. Board's Accountability on Financial Audit and Reporting Requirements**

There was no FY 2000 Management letter issued. A letter of this nature would have disclosed that the Board did in fact comply with the recommendations by outside auditors in the FY 99 audit report.

Sincerely,



Joel Sandifer, Chairman  
CMRS Board

---

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