

As Reported by the Senate Public Utilities Committee

132nd General Assembly

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Sub. H. B. No. 402

Representative Hill

Cosponsors: Representatives Smith, R., Lang, Seitz, Becker, Celebrezze, Scherer, Rezabek, Riedel, Koehler, Manning, Kick, Reineke, Blessing, Romanchuk

A BILL

To amend sections 128.01, 128.32, 4905.402, 1
4905.61, 4927.02, 4927.101, 4927.12, 4927.17, 2
and 4927.19 and to enact sections 4927.121, 3
4927.122, 4927.123, 4927.124, and 4927.125 of 4
the Revised Code to revise state regulation of 5
telephone companies. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 128.01, 128.32, 4905.402, 7
4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 4927.19 be 8
amended and sections 4927.121, 4927.122, 4927.123, 4927.124, and 9
4927.125 of the Revised Code be enacted to read as follows: 10

Sec. 128.01. As used in this chapter: 11

(A) "9-1-1 system" means a system through which 12
individuals can request emergency service using the telephone 13
number 9-1-1. 14

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller 15
provides information on the nature of and the location of an 16
emergency, and the personnel receiving the call must determine 17

the appropriate emergency service provider to respond at that 18
location. 19

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of 20
providing both enhanced wireline 9-1-1 and wireless enhanced 9- 21
1-1. 22

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in 23
which the wireline telephone network, in providing wireline 9-1- 24
1, automatically does either of the following: 25

(1) Automatically routes the call to emergency service 26
providers that serve the location from which the call is made 27
and immediately provides to personnel answering the 9-1-1 call 28
information on the location and the telephone number from which 29
the call is being made; 30

(2) Receives, develops, collects, or processes requests 31
for emergency assistance and relays, transfers, operates, 32
maintains, or provides emergency notification services or system 33
capabilities. 34

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, 35
in providing wireless 9-1-1, has the capabilities of phase I 36
and, to the extent available, phase II enhanced 9-1-1 services 37
as described in 47 C.F.R. 20.18 (d) to (h). 38

(F) (1) "Wireless service" means federally licensed 39
commercial mobile service as defined in 47 U.S.C. 332(d) and 40
further defined as commercial mobile radio service in 47 C.F.R. 41
20.3, and includes service provided by any wireless, two-way 42
communications device, including a radio-telephone 43
communications line used in cellular telephone service or 44
personal communications service, a network radio access line, or 45
any functional or competitive equivalent of such a radio- 46

telephone communications or network radio access line.	47
(2) Nothing in this chapter applies to paging or any service that cannot be used to call 9-1-1.	48 49
(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.	50 51 52
(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.	53 54 55
(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.	56 57 58
(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.	59 60 61
(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.	62 63 64 65 66
(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.	67 68 69 70 71
(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance	72 73 74

district, or joint emergency medical services district that 75
provides emergency service within its territory, or that 76
contracts with another municipal corporation, township, or 77
district or with a private entity to provide such service; and a 78
state college or university, port authority, or park district of 79
any kind that employs law enforcement officers that act as the 80
primary police force on the grounds of the college or university 81
or port authority or in the parks operated by the district. 82

(N) "Emergency service" means emergency law enforcement, 83
firefighting, ambulance, rescue, and medical service. 84

(O) "Emergency service provider" means the state highway 85
patrol and an emergency service department or unit of a 86
subdivision or that provides emergency service to a subdivision 87
under contract with the subdivision. 88

(P) "Public safety answering point" means a facility to 89
which 9-1-1 system calls for a specific territory are initially 90
routed for response and where personnel respond to specific 91
requests for emergency service by directly dispatching the 92
appropriate emergency service provider, relaying a message to 93
the appropriate provider, or transferring the call to the 94
appropriate provider. 95

(Q) "Customer premises equipment" means telecommunications 96
equipment, including telephone instruments, on the premises of a 97
public safety answering point that is used in answering and 98
responding to 9-1-1 system calls. 99

(R) "Municipal corporation in the county" includes any 100
municipal corporation that is wholly contained in the county and 101
each municipal corporation located in more than one county that 102
has a greater proportion of its territory in the county to which 103

the term refers than in any other county. 104

(S) "Board of county commissioners" includes the 105
legislative authority of a county established under Section 3 of 106
Article X, Ohio Constitution, or Chapter 302. of the Revised 107
Code. 108

(T) "Final plan" means a final plan adopted under division 109
(B) of section 128.08 of the Revised Code and, except as 110
otherwise expressly provided, an amended final plan adopted 111
under section 128.12 of the Revised Code. 112

(U) "Subdivision served by a public safety answering 113
point" means a subdivision that provides emergency service for 114
any part of its territory that is located within the territory 115
of a public safety answering point whether the subdivision 116
provides the emergency service with its own employees or 117
pursuant to a contract. 118

(V) A township's population includes only population of 119
the unincorporated portion of the township. 120

(W) "Telephone company" means a company engaged in the 121
business of providing local exchange telephone service by making 122
available or furnishing access and a dial tone to persons within 123
a local calling area for use in originating and receiving voice 124
grade communications over a switched network operated by the 125
provider of the service within the area and gaining access to 126
other telecommunications services. "Telephone-Unless otherwise 127
specified, "telephone company" includes a wireline service 128
provider and, a wireless service provider-unless otherwise 129
expressly specified, and any entity that is a covered 9-1-1 130
service provider under 47 C.F.R. 12.4. For purposes of sections 131
128.25 and 128.26 of the Revised Code, "telephone company" means 132

a wireline service provider.	133
(X) "Prepaid wireless calling service" has the same meaning as in division (AA) (5) of section 5739.01 of the Revised Code.	134 135 136
(Y) "Provider of a prepaid wireless calling service" means a wireless service provider that provides a prepaid wireless calling service.	137 138 139
(Z) "Retail sale" has the same meaning as in section 5739.01 of the Revised Code.	140 141
(AA) "Seller" means a person that sells a prepaid wireless calling service to another person by retail sale.	142 143
(BB) "Consumer" means the person for whom the prepaid wireless calling service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the prepaid wireless calling service is charged, or to whom the admission is granted.	144 145 146 147 148
(CC) "Reseller" means a nonfacilities-based provider of wireless service that provides wireless service under its own name to one or more end users in this state using the network of a wireless service provider.	149 150 151 152
(DD) "Steering committee" means the statewide emergency services internet protocol network steering committee established by division (A) (1) of section 128.02 of the Revised Code.	153 154 155 156
Sec. 128.32. (A) (1) The state, the state highway patrol, a subdivision, or a regional council of governments participating in a 9-1-1 system established under this chapter and any officer, agent, employee, or independent contractor of the	157 158 159 160

state, the state highway patrol, or such a participating 161
subdivision or regional council of governments is not liable in 162
damages in a civil action for injuries, death, or loss to 163
persons or property arising from any act or omission, except 164
willful or wanton misconduct, in connection with developing, 165
adopting, or approving any final plan or any agreement made 166
under section 128.09 of the Revised Code or otherwise bringing 167
into operation the 9-1-1 system pursuant to this chapter. 168

(2) The steering committee and any member of the steering 169
committee are not liable in damages in a civil action for 170
injuries, death, or loss to persons or property arising from any 171
act or omission, except willful or wanton misconduct, in 172
connection with the development or operation of a 9-1-1 system 173
established under this chapter. 174

(B) Except as otherwise provided in this section, an 175
individual who gives emergency instructions through a 9-1-1 176
system established under this chapter, and the principals for 177
whom the person acts, including both employers and independent 178
contractors, public and private, and an individual who follows 179
emergency instructions and the principals for whom that person 180
acts, including both employers and independent contractors, 181
public and private, are not liable in damages in a civil action 182
for injuries, death, or loss to persons or property arising from 183
the issuance or following of emergency instructions, except 184
where the issuance or following of the instructions constitutes 185
willful or wanton misconduct. 186

(C) Except for willful or wanton misconduct, a telephone 187
company, and any other installer, maintainer, or provider, 188
through the sale or otherwise, of customer premises equipment, 189
or service used for or with a 9-1-1 system, and their respective 190

officers, directors, employees, agents, ~~and~~ suppliers, corporate 191
parents, and affiliates are not liable in damages in a civil 192
action for injuries, death, or loss to persons or property 193
incurred by any person resulting from any of the following: 194

(1) Such an entity's or its officers', directors', 195
employees', agents', or suppliers' participation in or acts or 196
omissions in connection with participating in or developing, 197
maintaining, or operating a 9-1-1 system; 198

(2) Such an entity's or its officers', directors', 199
employees', agents', or suppliers' provision of assistance to a 200
public utility, municipal utility, or state or local government 201
as authorized by divisions (G) (4) and (5) of this section. 202

(D) Except for willful or wanton misconduct, a provider of 203
and a seller of a prepaid wireless calling service and their 204
respective officers, directors, employees, agents, and suppliers 205
are not liable in damages in a civil action for injuries, death, 206
or loss to persons or property incurred by any person resulting 207
from anything described in division (C) of this section. 208

(E) No person shall knowingly use the telephone number of 209
a 9-1-1 system established under this chapter to report an 210
emergency if the person knows that no emergency exists. 211

(F) No person shall knowingly use a 9-1-1 system for a 212
purpose other than obtaining emergency service. 213

(G) No person shall disclose or use any information 214
concerning telephone numbers, addresses, or names obtained from 215
the data base that serves the public safety answering point of a 216
9-1-1 system established under this chapter, except for any of 217
the following purposes or under any of the following 218
circumstances: 219

(1) For the purpose of the 9-1-1 system;	220
(2) For the purpose of responding to an emergency call to an emergency service provider;	221 222
(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;	223 224 225 226 227
(4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.	228 229 230 231 232 233 234
(5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.	235 236 237 238 239 240 241
Sec. 4905.402. (A) As used in this section:	242
(1) "Control" means the possession of the power to direct the management and policies of a domestic telephone company or a holding company of a domestic telephone company, or the management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but	243 244 245 246 247 248

does not include the power that results from holding an official position or the possession of corporate office with the domestic company or utility or the holding company. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds with the power to vote proxies that constitute, twenty per cent or more of the total voting power of the domestic company or utility or the holding company.

(2) "Electric utility" has the same meaning as in section 4928.07 of the Revised Code.

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function.

(4) "Telephone company" means any company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code and provides basic local exchange service, as defined in section 4927.01 of the Revised Code.

(B) ~~No~~ Except as provided in division (H) (1) of this section:

(1) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility unless that person obtains the prior approval of the public utilities commission under this section. ~~To~~

(2) To obtain approval required under division (B) (1) of this section, the person seeking the approval shall file an application with the public utilities commission demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate,

rental, toll, or charge. The application shall contain such 278
information as the public utilities commission may require. If 279
the public utilities commission considers a hearing necessary, 280
it may fix a time and place for hearing. If, after review of the 281
application and after any necessary hearing, the public 282
utilities commission is satisfied that approval of the 283
application will promote public convenience and result in the 284
provision of adequate service for a reasonable rate, rental, 285
toll, or charge, the public utilities commission shall approve 286
the application and make such order as it considers proper. If 287
the public utilities commission fails to issue an order within 288
thirty days of the filing of the application under this 289
division, or within twenty days of the conclusion of a hearing, 290
if one is held, the application shall be deemed approved by 291
operation of law. 292

(C) ~~No~~ Except as provided in division (H) (2) of this 293
section: 294

(1) No domestic telephone company shall merge with another 295
domestic telephone company unless the merging companies obtain 296
the prior approval of the public utilities commission. ~~An~~ 297

(2) An application seeking ~~such~~ approval required under 298
division (C) (1) of this section shall be filed, processed, and 299
decided in the manner provided for an application under division 300
(B) (2) of this section. 301

(D) The public utilities commission shall adopt such rules 302
as it finds necessary to carry out the provisions of this 303
section. The rules shall specify the time and manner in which a 304
company must file the notice required under division (G) of this 305
section. 306

(E) If it appears to the public utilities commission or to 307
any person that may be adversely affected that any person is 308
engaged in or about to engage in any acts or practices that 309
would violate division (B) or (C) of this section or any 310
provision of a rule adopted under this section, the attorney 311
general, when directed to do so by the public utilities 312
commission, or the person claiming to be adversely affected may 313
bring an action in any court of common pleas that has 314
jurisdiction and venue to enjoin such acts or practices and 315
enforce compliance. Upon a proper showing, the court shall 316
grant, without bond, a restraining order or temporary or 317
permanent injunction. 318

(F) The courts of this state have jurisdiction over every 319
person not a resident of or domiciled or authorized to do 320
business in this state that files, or is prohibited from acting 321
without first filing, an application under division (B) or (C) 322
of this section, and over all actions involving such person 323
arising out of violations of any provision of this section or of 324
a rule adopted under this section. The secretary of state shall 325
be the agent for service of process for any such person in any 326
action, suit, or proceeding arising out of such violations. 327
Copies of all such lawful process shall be served upon the 328
secretary of state and transmitted by certified mail, with 329
return receipt requested, by the secretary of state to such 330
person at the person's last known address. 331

(G) A domestic telephone company or a holding company 332
controlling a domestic telephone company that files an 333
application with the federal communications commission seeking 334
authority for a merger or transfer of control shall file notice 335
of the application with the public utilities commission. The 336
notice shall include an internet link to the application. 337

(H) (1) Divisions (B) (1) and (2) of this section do not 338
apply to the acquisition of control of a domestic telephone 339
company or a holding company controlling a domestic telephone 340
company if there is a pending application with the federal 341
communications commission regarding the acquisition. If the 342
federal communications commission waives the exercise of its 343
authority regarding the acquisition or otherwise chooses not to 344
exercise its authority regarding the acquisition, then divisions 345
(B) (1) and (2) of this section apply. 346

(2) Divisions (C) (1) and (2) of this section do not apply 347
if there is a pending application with the federal 348
communications commission regarding a merger of domestic 349
telephone companies. If the federal communications commission 350
waives the exercise of its authority regarding the merger or 351
otherwise chooses not to exercise its authority regarding the 352
merger, then divisions (C) (1) and (2) of this section apply. 353

(I) Nothing in division (G) or (H) of this section shall 354
affect the obligations and rights described in division (A) of 355
section 4927.101 of the Revised Code. 356

Sec. 4905.61. If any public utility or railroad does, or 357
causes to be done, any act or thing prohibited by Chapters 358
4901., 4903., 4905., 4907., 4909., 4921., 4923., and 4927. of 359
the Revised Code, or declared to be unlawful, or omits to do any 360
act or thing required by the provisions of those chapters, or by 361
order of the public utilities commission, the public utility or 362
railroad is liable to the person, firm, or corporation injured 363
thereby in treble the amount of damages sustained in consequence 364
of the violation, failure, or omission. Any recovery under this 365
section does not affect a recovery by the state for any penalty 366
provided for in the chapters. This section does not apply to a 367

<u>telephone company.</u>	368
Sec. 4927.02. (A) It is the policy of this state to:	369
(1) Ensure the availability <u>adequacy and reliability</u> of	370
adequate basic local exchange service or <u>consistent with</u>	371
<u>sections 4927.07, 4927.10, and 4927.11 of the Revised Code, and</u>	372
<u>the adequacy and reliability of voice service to citizens</u>	373
throughout the state;	374
(2) Provide incentives for competing providers of	375
telecommunications service to provide advanced, high-quality	376
telecommunications service to citizens throughout the state;	377
(3) Rely primarily on market forces, where they exist, to	378
maintain reasonable service levels for telecommunications	379
services at reasonable rates;	380
(4) Encourage innovation in the telecommunications	381
industry and the deployment of advanced telecommunications	382
services;	383
(5) Create a regulatory climate that provides incentives	384
to create and maintain high technology jobs for Ohioans;	385
(6) Promote diversity and options in the supply of	386
telecommunications services and equipment throughout the state;	387
(7) Recognize the continuing emergence of a competitive	388
telecommunications environment through flexible regulatory	389
treatment of telecommunications services where appropriate;	390
(8) Consider the regulatory treatment of competing and	391
functionally equivalent services and, to the extent practicable,	392
provide for equivalent regulation of all telephone companies and	393
services;	394

(9) Not unduly favor or advantage any provider and not 395
unduly disadvantage providers of competing and functionally 396
equivalent services; ~~and~~ 397

(10) Protect the affordability of telephone service for 398
low-income subscribers through the continuation of federal 399
lifeline assistance programs; and 400

(11) Allow and encourage competition and market forces to 401
determine the availability, prices, terms, and other conditions 402
of providing telecommunications services. 403

(B) The public utilities commission shall consider the 404
policy set forth in this section in carrying out this chapter. 405

Sec. 4927.101. (A) Section 4927.10 of the Revised Code and 406
the amendments to sections 4927.01, 4927.02, 4927.07, and 407
4927.11 of the Revised Code made by H.B. 64 of the 131st general 408
assembly shall not affect any of the following: 409

(1) Any contractual obligation, including agreements under 410
the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 411
251 and 252, as amended; 412

(2) Any right or obligation under federal law or rules; 413

(3) The carrier-access requirements under section 4927.15 414
of the Revised Code; 415

(4) Any right or obligation under section 4905.71 of the 416
Revised Code; 417

(5) Any state law or rule adopted under this title related 418
to wholesale rights or obligations. 419

(B) The amendments to section 4927.15 of the Revised Code 420
made by H.B. 64 of the 131st general assembly shall not affect 421

the obligations and rights described in divisions (A) (1), (2), 422
(4), and (5) of this section. 423

(C) The amendments to sections 128.01, 128.32, 4905.402, 424
4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 4927.19 of the 425
Revised Code and the enactment of sections 4927.121, 4927.122, 426
4927.123, 4927.124, and 4927.125 of the Revised Code made by 427
H.B. 402 of the 132nd general assembly shall not affect the 428
obligations and rights described in division (A) of this 429
section. 430

Sec. 4927.12. (A) As used in this section, ~~"exchange :~~ 431

"Exchange area" means a geographical service area 432
established by an incumbent local exchange carrier and approved 433
by the public utilities commission. 434

"Incremental cost" has the meaning as defined by the 435
commission. 436

(B) Subject to ~~divisions~~ division (C), (D), and (E) of 437
this section, ~~and upon not less than thirty days' notice to the~~ 438
~~public utilities commission and to affected customers, an~~ 439
~~incumbent local exchange carrier may alter its rates for basic~~ 440
~~local exchange service.~~ 441

~~(C) In addition to the requirements of division (B) of~~ 442
~~this section, all of the following apply to any upward~~ 443
~~alteration of rates for basic local exchange service made under~~ 444
~~that division (A) of section 4927.124 of the Revised Code, and~~ 445
except as provided in sections 4927.121, 4927.122, and 4927.123 446
of the Revised Code: 447

(1) If ~~the~~ an incumbent local exchange carrier, within the 448
twelve months prior to ~~the effective date of this section~~ 449
September 13, 2010, increased the carrier's rates for basic 450

local exchange service for an exchange area, ~~both of the~~ 451
~~following apply:~~ 452

~~(a) The incumbent local exchange carrier may not alter the~~ 453
~~carrier's rates for basic local exchange service for the~~ 454
~~exchange area upward by any amount during the period that ends~~ 455
~~twelve months after the date of the last increase of the rates~~ 456
~~for basic local exchange service.~~ 457

~~(b) In no event may the incumbent local exchange carrier,~~ 458
~~during the twelve month period that begins immediately after the~~ 459
~~end date of the period described in division (C) (1) (a) of this~~ 460
~~section, and during any subsequent twelve-month period, may~~ 461
~~alter the carrier's rates for basic local exchange service~~ 462
~~upward for the exchange area downward by any amount, but not~~ 463
~~below the carrier's incremental cost, or upward by not more than~~ 464
~~the amount authorized for an annual increase in the rate for~~ 465
~~basic local exchange service by division (A) of rule 4901:1-4-11-~~ 466
~~of the Ohio Administrative Code as that rule existed on the~~ 467
~~effective date of this section two dollars.~~ 468

(2) If ~~the~~ an incumbent local exchange carrier did not, 469
within the twelve months prior to ~~the effective date of this~~ 470
~~section~~ September 13, 2010, increase the carrier's rates for 471
basic local exchange service for an exchange area, and if the 472
commission has made a prior determination that the exchange area 473
qualified for alternative regulation of basic local exchange 474
service under Chapter 4901:1-4 of the Ohio Administrative Code 475
as that chapter existed on ~~the effective date of this section~~ 476
September 13, 2010, ~~in no event may the incumbent local exchange~~ 477
~~carrier, during the twelve month period that begins on the~~ 478
~~effective date of this section, and during any subsequent~~ 479
twelve-month period, may alter the carrier's rates for basic 480

local exchange service ~~upward~~ for the exchange area downward by 481
any amount, but not below the carrier's incremental cost, or 482
upward by not more than the amount described in division (C) (1) 483
~~(b) of this section~~ two dollars. 484

(3) (a) If the commission has not made a prior 485
determination that ~~the~~ an exchange area qualified for 486
alternative regulation of basic local exchange service under 487
Chapter 4901:1-4 of the Ohio Administrative Code as that chapter 488
existed on ~~the effective date of this section~~ September 13, 489
2010, an incumbent local exchange carrier may, at any time, 490
alter the carrier's rates for basic local exchange service for 491
that exchange area downward by any amount, but not below the 492
carrier's incremental cost. But the carrier may not alter its 493
rates for basic local exchange service upward for that exchange 494
area unless the carrier first applies to the commission and the 495
commission determines that the application demonstrates that two 496
or more alternative providers offer, in the exchange area, 497
competing service to the basic local exchange service offered by 498
an incumbent local exchange carrier in the exchange area, 499
regardless of the technology and facilities used by the 500
alternative provider, the alternative provider's location, and 501
the extent of the alternative provider's service area within the 502
exchange area. An alternative provider includes a telephone 503
company, including a wireless service provider, a 504
telecommunications carrier, and a provider of internet protocol- 505
enabled services, including voice over internet protocol. 506

(b) ~~Upon~~ On the thirty-first day after the filing of an 507
application under division ~~(C)~~ (B) (3) (a) of this section, the 508
commission shall be deemed to have found that the application 509
meets the requirements of that division unless the commission, 510
within thirty days after the filing of the application, ~~issues~~ 511

does either of the following: 512

(i) Issues an order finding that the requirements of 513
division (B) (3) (a) of this section have not been met; 514

(ii) Suspends the automatic approval for good cause shown. 515
The commission shall then act to approve or deny the application 516
not later than ninety days after the date of the suspension. 517

~~(c) In no event may~~ If an incumbent local exchange carrier 518
~~that applies to the commission under division (C) (3) (a) of~~ 519
~~this section and the application is approved or deemed approved~~ 520
under division (B) (3) (b) of this section, the incumbent local 521
exchange carrier, (i) during the twelve-month period that (I) 522
begins on the thirty-first day after the company files the 523
application, if the application is deemed approved, or (II) 524
begins on the date that the application is approved, and (ii) 525
during any subsequent twelve-month period, may alter the 526
carrier's rates for basic local exchange service upward for the 527
exchange area to which the application applies upward by not 528
~~more than the amount described in division (C) (1) (b) of this~~ 529
~~section two dollars.~~ 530

~~(4) In no event may an incumbent local exchange carrier,~~ 531
~~before January 1, 2012, alter the carrier's rates for basic~~ 532
~~local exchange service upward for a customer receiving lifeline~~ 533
~~service under section 4927.13 of the Revised Code.~~ 534

~~(D) Except as provided in division (E) of this section, no~~ 535
(C) No banking of upward rate alterations made under division 536
(B) of this section is permitted. 537

~~(E) At any time and upon not less than thirty days' notice~~ 538
~~to the commission and to affected customers, an incumbent local~~ 539
~~exchange carrier owned and operated exclusively by and solely~~ 540

~~for its customers may alter its rates for basic local exchange service by any amount.~~ 541
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~~(F) The rates, terms, and conditions for basic local exchange service and for installation and reconnection fees for basic local exchange service shall be tariffed in the manner prescribed by rule adopted by the commission.~~ 543
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Sec. 4927.121. Subject to section 4927.124 of the Revised Code, an incumbent local exchange carrier owned and operated exclusively by and solely for its customers may alter its rates for basic local exchange service upward by any amount and at any time. 547
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Sec. 4927.122. Subject to section 4927.124 of the Revised Code, the public utilities commission shall allow upward alterations to the rate for basic local exchange service by an incumbent local exchange carrier by any amount necessary in order to comply with the eligibility requirements prescribed by the federal communications commission for the federal universal service high-cost program. Upward alterations may be ordered to be phased in over a period not to exceed three years if the commission determines that a phase-in is necessary to protect the public interest. 552
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Sec. 4927.123. (A) As used in this section: 562

"Exchange area" has the same meaning as in section 4927.12 of the Revised Code. 563
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"Line loss" refers to the number of access lines, whether residential or commercial, for which a customer of an incumbent local exchange carrier has terminated local exchange service. 565
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(B) Not earlier than the date that is exactly four years after the effective date of this section, an incumbent local 568
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exchange carrier may apply to the public utilities commission 570
for an exemption from the requirements of section 4927.12 of the 571
Revised Code for an exchange area, subject to division (E) of 572
this section. 573

(C) The commission shall approve an application under 574
division (B) of this section if the carrier demonstrates that 575
both of the following apply: 576

(1) The carrier has experienced at least fifty per cent 577
line loss in the exchange area since January 1, 2002. 578

(2) One of the following applies: 579

(a) The carrier increased the carrier's rates for basic 580
local exchange service for the exchange area within the twelve 581
months prior to September 13, 2010. 582

(b) The commission made a determination that the exchange 583
area qualified for alternative regulation of basic local 584
exchange service under Chapter 4901:1-4 of the Ohio 585
Administrative Code as that chapter existed on September 13, 586
2010. 587

(c) The carrier filed an application for the exchange area 588
that was approved or deemed approved under division (B) (3) (b) of 589
section 4927.12 of the Revised Code. 590

(D) On the thirty-first day after the filing of an 591
application under division (B) of this section, the commission 592
shall be deemed to have found that the application meets the 593
requirements of division (C) of this section unless the 594
commission, within thirty days after the filing of the 595
application, issues an order finding that the requirements have 596
not been met. 597

(E) If an application for an exchange area is approved or 598
deemed approved under this section, the incumbent local exchange 599
carrier that filed the application shall be exempt from the 600
requirements of section 4927.12 of the Revised Code for the 601
exchange area to which the application applies, except that the 602
carrier may not alter the carrier's rates for basic local 603
exchange service below the carrier's incremental cost. 604
"Incremental cost" has the same meaning as in section 4927.12 of 605
the Revised Code. 606

(F) Nothing in this section shall be construed to impair 607
the rights of any person to file a complaint with the commission 608
under section 4927.21 of the Revised Code, or the rights of the 609
commission to initiate such a complaint, against an incumbent 610
local exchange carrier who has been granted an exemption under 611
this section. 612

Sec. 4927.124. (A) An incumbent local exchange carrier 613
altering its rates for basic local exchange service under 614
section 4927.12, 4927.121, or 4927.122 of the Revised Code shall 615
provide not less than thirty days' notice to the public 616
utilities commission and to affected customers. 617

(B) Division (A) of this section also applies to an 618
incumbent local exchange carrier altering its rates for basic 619
local exchange service in an exchange area for which the carrier 620
has been granted an exemption under section 4927.123 of the 621
Revised Code. 622

Sec. 4927.125. The rates, terms, and conditions for basic 623
local exchange service and for installation and reconnection 624
fees for basic local exchange service shall be tariffed in the 625
manner prescribed by rule adopted by the public utilities 626
commission. 627

Sec. 4927.17. (A) Except as provided in sections 4927.07 628
and ~~4927.12~~4927.124 of the Revised Code, a telephone company 629
shall provide at least fifteen days' advance notice to its 630
affected customers of any material change in the rates, terms, 631
and conditions of a any retail service required to be tariffed 632
by the public utilities commission or the federal communications 633
commission, any wholesale service as to which there is no other 634
applicable notice requirement, and any change in the company's 635
operations that are not transparent to customers and may impact 636
service. 637

(B) A telephone company shall inform its customers of the 638
commission's toll-free number and e-mail address on all bills 639
and disconnection notices and any residential customers of the 640
office of the consumers' counsel's toll-free number and e-mail 641
address on all residential bills and disconnection notices. 642

Sec. 4927.19. (A) The public utilities commission may 643
investigate or examine the books, records, or practices of any 644
telephone company, but only to the extent of the commission's 645
jurisdiction over the company under sections 4927.01 to 4927.21 646
of the Revised Code. Subject to that limitation, the commission 647
may do any of the following: 648

~~(A)~~ (1) Through its commissioners or by inspectors or 649
employees authorized by it, examine the books, records, 650
contracts, documents, and papers of any such company for any 651
purpose incidental to the commission's authority under those 652
sections; 653

~~(B)~~ (2) By subpoena duces tecum, compel the production of 654
such books, records, contracts, documents, and papers; 655

~~(C)~~ (3) Compel the attendance of such witnesses as it 656

requires to give evidence in connection with such an 657
investigation. 658

(B) The commission may investigate or inspect the plant 659
and facility of any telephone company, subject to the following 660
limitations: 661

(1) To the extent of the commission's jurisdiction over 662
the company under sections 4927.01 to 4927.21 of the Revised 663
Code; 664

(2) Only in response to a complaint that implicates the 665
plant or facility to be inspected and that is made by a consumer 666
concerning basic local exchange service or another entity 667
concerning wholesale service. 668

Section 2. That existing sections 128.01, 128.32, 669
4905.402, 4905.61, 4927.02, 4927.101, 4927.12, 4927.17, and 670
4927.19 of the Revised Code are hereby repealed. 671

Section 3. Not later than one hundred twenty days 672
following the effective date of H.B. 402 of the 132nd General 673
Assembly, the Public Utilities Commission shall amend its rules 674
to the extent necessary to bring them into conformity with this 675
act and shall amend its rule implementing section 4927.13 of the 676
Revised Code to ensure consistency with the federal Lifeline 677
program. 678

Section 4. (A) As used in this section: 679

"Basic local exchange service" and "incumbent local 680
exchange carrier" have the same meanings as in section 4927.01 681
of the Revised Code. 682

"Exchange area" has the same meaning as in section 4927.12 683
of the Revised Code. 684

"Line loss" has the same meaning as in section 4927.123 of 685
the Revised Code. 686

(B) Not later than the date that is exactly three years 687
after the effective date of this section, the staff of the 688
Public Utilities Commission shall produce and docket at the 689
Commission a report that includes all of the following: 690

(1) The number of basic local exchange lines in service in 691
this state at the time of the report; 692

(2) The aggregate amount of line loss in this state since 693
the effective date of this section; 694

(3) The change in the price of basic local exchange 695
service in each exchange area in this state over the three years 696
since the effective date of this section. 697

(C) The Commission shall allow three months for public 698
comment on the report. 699

(D) Not later than a date that is exactly three months 700
after the report is docketed under division (B) of this section, 701
the Commission shall submit a report to the standing committees 702
in the House of Representatives and the Senate primarily dealing 703
with telecommunications issues, the President of the Senate, and 704
the Speaker of the House of Representatives. The report shall 705
include the Commission's assessment of the information described 706
in divisions (B)(1) to (3) of this section. 707

(E) Nothing in this section prevents a party from arguing 708
that information subject to being reported under this section is 709
a trade secret and should be kept confidential. 710