

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 1691
Corrected Copy 5/17/10**

Short Title: Use of 911 Funds. (Public)

Sponsors: Representatives Bryant, Faison, Sager, West (Primary Sponsors); M. Alexander, Bordsen, Braxton, Brown, Burr, Cole, Cotham, Crawford, England, Farmer-Butterfield, Fisher, E. Floyd, Glazier, Goodwin, Hughes, Insko, Johnson, Justice, Love, Luebke, Mackey, May, McLawhorn, Michaux, Owens, Pierce, Setzer, Spear, Tarleton, Tolson, Wainwright, E. Warren, R. Warren, Weiss, Wilkins, and Wray.

Referred to: Public Utilities, if favorable, Finance.

May 13, 2010

A BILL TO BE ENTITLED
AN ACT TO AMEND THE STATUTES GOVERNING EMERGENCY TELEPHONE
SERVICE AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE
USE OF 911 FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-41 reads as rewritten:

"(a) Membership. – The 911 Board is established in the Office of Information Technology Services. Neither a local government unit that receives a distribution from the fund under G.S. 62A-46 nor a telecommunication service provider may have more than one representative on the 911 Board. The 911 Board consists of 17 members as follows:

(1) Four members appointed by the Governor as follows:

- a. An individual who represents municipalities appointed upon the recommendation of the North Carolina League of Municipalities.
- b. An individual who represents counties appointed upon the recommendation of the North Carolina Association of County Commissioners.
- c. An individual who represents a VoIP provider.
- d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

- a. An individual who is a sheriff.
- b. ~~Two individuals~~ An individual who ~~represent~~ represents CMRS providers operating in North Carolina.
- c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).
- d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.
- e. A fire chief upon the recommendation of the North Carolina Firemen's Association.



- 1 (3) Six members appointed by the General Assembly upon the recommendation
 2 of the President Pro Tempore of the Senate as follows:
 3 a. An individual who is a chief of police.
 4 b. Two individuals who represent CMRS providers operating in North
 5 Carolina.
 6 c. ~~An individual who represents the North Carolina chapter of the~~
 7 ~~National Emergency Number Association (NENA). An emergency~~
 8 ~~management director upon the recommendation of the North~~
 9 ~~Carolina Association of Rescue and Emergency Management~~
 10 ~~Services.~~
 11 d. Two individuals who represent local exchange carriers operating in
 12 North Carolina, one of whom represents a local exchange carrier
 13 with less than 200,000 access lines.
 14 (4) The State Chief Information Officer or the State Chief Information Officer's
 15 designee, who serves as the chair.

16 (b) Term. – A member's term is ~~four~~ three years. No member may serve more than two
 17 terms. Members remain in office until their successors are appointed and qualified. Vacancies
 18 are filled in the same manner as the original appointment. The Governor may remove any
 19 member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

20"

21 **SECTION 1.(b)** Other than the position removed by this act or individuals
 22 prohibited from serving on the Board due to duplicate representation prohibited by this act, the
 23 existing members of the 911 Board shall continue to serve until the expiration of their original
 24 terms. An existing member may not be reappointed to the Board if he or she has served two
 25 terms on the 911 Board.

26 **SECTION 2.(a)** G.S. 62A-42(a) reads as rewritten:

27 "(a) Duties. – The 911 Board has the following powers and duties:

28 ...

- 29 (4) To establish ~~policies and procedures~~ policies, procedures, and primary PSAP
 30 operating standards to fund advisory services and training for PSAPs and to
 31 provide funds in accordance with these ~~policies and procedures~~ policies,
 32 procedures, and standards for PSAP operations.

33 ...

- 34 (9) To adopt rules to implement this Article. This authority does not include the
 35 regulation of any enhanced 911 service, such as the establishment of
 36 technical ~~standards~~ standards for telecommunications service providers to
 37 deliver 911 voice and data.

38 ..."

39 **SECTION 2.(b)** G.S. 62A-46(c) is amended by adding a new subdivision to read:

40 "(5) A PSAP must comply with the rules, policies, procedures, and operating
 41 standards for primary PSAPs adopted by the Board."

42 **SECTION 2.(c)** Subsection (b) of this section becomes effective July 1, 2011.

43 **SECTION 3.** G.S. 62A-42(b) reads as rewritten:

44 "(b) Prohibition. – In no event shall the 911 Board or any other State agency lease,
 45 construct, operate, or own a communications network for the purpose of providing 911 service.
 46 The 911 Board may pay private sector vendors for provisioning a network for the purpose of
 47 providing 911 service."

48 **SECTION 4.(a)** G.S. 62A-42(a)(6) reads as rewritten:

49 "(6) To make and enter into contracts and agreements necessary or incidental to
 50 the performance of its powers and duties under this Article and to use
 51 revenue available to the 911 Board under G.S. 62A-44 for administrative

1 expenses to pay its obligations under the contracts and agreements. The
2 Board may use funds available to the Board under G.S. 62A-47 to pay its
3 obligations incurred for statewide 911 Projects."

4 **SECTION 4.(b)** G.S. 62A-45(c) reads as rewritten:

5 "(c) Grant Reallocation. – If the amount of reimbursements to CMRS providers by the
6 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to
7 CMRS providers for that fiscal year, the 911 Board may reallocate part ~~or all~~ of the excess
8 amount to the PSAP Grant and 911 Statewide Projects Account established under G.S. 62A-47.
9 The 911 Board may reallocate funds under this subsection only once each calendar year and
10 may do so only within the three-month period that follows the end of the fiscal year. If the 911
11 Board reallocates more than a total of three million dollars (\$3,000,000) to the PSAP Grant and
12 911 Statewide Projects Account in a calendar year, it must consider reducing the amount of the
13 service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911
14 system services.

15 The 911 Board must make the following findings before it reallocates funds to the PSAP
16 Grant and 911 Statewide Projects Account:

- 17 (1) There is a critical need for additional funding for PSAPs in rural or high-cost
18 areas to ensure that enhanced 911 service is deployed throughout the State.
- 19 (2) The reallocation will not impair cost recovery by CMRS providers.
- 20 (3) The reallocation will not result in the insolvency of the 911 Fund."

21 **SECTION 4.(c)** G.S. 62A-47 reads as rewritten:

22 "**§ 62A-47. PSAP Grant and Statewide 911 Projects Account.**

23 ...

24 (b) Grant Application. – A PSAP may apply to the 911 Board for a grant from the
25 ~~PSAP Grant Account~~. An application must be submitted in the manner prescribed by the 911
26 Board. The 911 Board may approve a grant application and enter into a grant agreement with a
27 PSAP if it determines all of the following:

- 28 (1) The costs estimated in the application are reasonable and have been or will
29 be incurred for the purpose of promoting a cost-effective and efficient 911
30 system.
- 31 (2) The expenses to be incurred by the applicant are consistent with the 911
32 State Plan.
- 33 (3) There are sufficient funds available in the fiscal year in which the grant
34 funds will be distributed.
- 35 (4) The costs are authorized PSAP costs under ~~G.S. 62A-46(e)~~. G.S. 62A-46(c)
36 or (c1).

37 (c) Grant Agreement. – A grant agreement between the 911 Board and a PSAP must
38 include the purpose of the grant, the time frame for implementing the project or program
39 funded by the grant, the amount of the grant, and a provision for repaying grant funds if the
40 PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary
41 among grantees. If the grant is intended to promote the deployment of enhanced 911 service in
42 a rural area of the State, the grant agreement must specify how the funds will assist with this
43 goal. The 911 Board must publish one or more notices each fiscal year advertising the
44 availability of grants from the PSAP Grant Account and detailing the application process,
45 including the deadline for submitting applications, any required documents specifying costs,
46 either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant
47 funds awarded to PSAPs under this section are in addition to any funds reimbursed under
48 G.S. 62A-46.

49 (d) Statewide 911 Projects. – The Board may use funds from the Account for statewide
50 projects if the Board determines the project meets all of the following requirements:

- 51 (1) The project is consistent with the 911 plan.

- 1 (2) The project is cost effective and efficient when compared to the aggregated
2 costs incurred by primary PSAPs for implementing individual projects.
3 (3) The project is an eligible expense under G.S. 62A-46(c) or (c1).
4 (4) The project will have statewide benefit for 911 service."

5 **SECTION 4.(d)** G.S. 62A-43(d) reads as rewritten:

6 "(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the
7 service charge. If the 911 Board determines that the rate produces revenue in excess of or
8 insufficient for the amount needed, the 911 Board ~~must reduce~~may adjust the rate. The ~~reduced~~
9 rate must ensure full cost recovery for voice communications service providers and for primary
10 PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective
11 only on July 1 of ~~an even-numbered~~any year. The 911 Board must notify providers of a change
12 in the rate at least 90 days before the change becomes effective."

13 **SECTION 5.** G.S. 62A-44(b) reads as rewritten:

14 "(b) Allocation of Revenues. – The percentage of the funds remitted under G.S. 62A-43
15 which ~~The~~ the 911 Board may deduct and retain for its administrative expenses is initially set at
16 one percent (1%) of the total service charges collected. The 911 Board must monitor the
17 amount of funds required to meet its financial commitment to providing technical assistance to
18 primary PSAPs and may, if costs warrant, adjust the percentage up to two percent (2%). ~~up to~~
19 one percent (1%) of the total service charges remitted to it under G.S. 62A-43 for deposit in the
20 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are
21 allocated as follows:

22 ..."

23 **SECTION 6.(a)** G.S. 62A-46(a) reads as rewritten:

24 "(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary
25 PSAPs from the amount allocated to the 911 Fund for PSAPs. ~~The amount to be distributed to~~
26 ~~each primary PSAP is the sum of the following:~~

- 27 (1) ~~The PSAP's base amount. — The PSAP's base amount is the amount the~~
28 ~~PSAP received in the fiscal year ending June 30, 2007, and deposited in the~~
29 ~~Emergency Telephone System Fund of its local governing entity, as reported~~
30 ~~to the State Treasurer's Office, Local Government Division.~~
31 (2) ~~The PSAP's per capita amount. — The PSAP's per capita amount is the~~
32 ~~PSAP's per capita share of the amount designated by the Board under~~
33 ~~subsection (b) of this section for the per capita distribution. The 911 Board~~
34 ~~must use the most recent population estimates certified by the State Budget~~
35 ~~Officer in making the per capita distribution under this subdivision. A PSAP~~
36 ~~is not eligible for a distribution under this subdivision unless it provides~~
37 ~~enhanced 911 service~~ A PSAP is not eligible for a distribution under this
38 subsection unless it provides enhanced 911 service and received
39 distributions from the 911 Board in the prior fiscal year. The Board must
40 notify PSAPs of the estimated distributions no later than December 31 of
41 each year. The Board must determine actual distributions no later than June
42 1 of each year. The Board must determine a method for establishing
43 distributions that is equitable and sustainable, and that ensures distributions
44 for eligible operating costs and anticipated increases for all funded PSAPs.
45 The Board must establish a formula to determine each PSAP's base amount.
46 The formula must be determined and published to PSAPs in the first quarter
47 of the fiscal year preceding the fiscal year in which the formula is used. The
48 Board must not change the funding formula for the base amount more than
49 once every year. In establishing the funding formula, the Board must
50 consider information including population of the area served by a PSAP,
51 PSAP reports and budgets, disbursement histories, historical costs, PSAP

1 operations, 911 technologies used by the PSAP, compliance with operating
2 standards of the 911 Board, level of service a PSAP delivers dispatching fire,
3 Emergency Medical Services, law enforcement, Emergency Medical
4 dispatch, and the tier designation of the county in which the PSAP is located
5 as designated in G.S. 143B-437.08, and any other information deemed
6 proper by the Board. In the first quarter of the Board's fiscal year, the Board
7 must determine whether payments to PSAPs during the preceding fiscal year
8 exceeded or were less than the eligible costs incurred by each PSAP during
9 the fiscal year. If a PSAP receives less than its eligible costs in any fiscal
10 year, the Board may increase a PSAP's distribution in the following fiscal
11 year above the base amount as determined by the formula to meet the
12 estimated eligible costs of the PSAP as determined by the Board. The Board
13 may not distribute less than the base amount to each PSAP. The Board must
14 provide a procedure for a PSAP to request a reconsideration of its
15 distribution or eligible expenses."

16 **SECTION 6.(b)** G.S. 62A-46 is amended by adding a new subsection to read:

17 "(b1) Carryforward. – A PSAP may carry forward up to twenty percent (20%) of the total
18 funds disbursed by the Board during a fiscal year for eligible expenditures for capital outlay,
19 capital improvements, or equipment replacement. The twenty percent (20%) limitation does not
20 apply to funds awarded as a grant. Neither the carryforward under this section nor any grant
21 amount may be used in the funding formula to reduce the PSAP base amount."

22 **SECTION 6.(c)** This section becomes effective July 1, 2010, but shall not apply to
23 distributions by the Board in fiscal year beginning in 2010.

24 **SECTION 7.(a)** G.S. 62A-40 reads as rewritten:

25 **"§ 62A-40. Definitions.**

26 The following definitions apply in this Article.

27 ...

28 (5) Call taking. – The act of processing a 911 call for emergency assistance up
29 to the point that the call is ready for dispatch, by a primary PSAP including
30 the use of 911 system equipment, call classification, location of a caller, and
31 determination of the appropriate response level for emergency
32 responders, responders, and dispatching 911 call information to the
33 appropriate responder.

34 ...

35 (8a) Dispatch. – The broadcast, transfer, or other retransmittal of emergency call
36 information by a primary PSAP to responders including the equipment or
37 services required for responders to receive information and the equipment to
38 be used by responders to intercommunicate among themselves.

39 (9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by
40 selective routing or other means based on the geographical location from
41 which the call originated and providing information defining the
42 approximate geographic location and the telephone number of a 911 caller,
43 in accordance with the FCC Order.

44 "

45 **SECTION 7.(b)** G.S. 62A-46(c) reads as rewritten:

46 (c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use
47 the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of
48 emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of
49 mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.
50 Distributions received by a PSAP may be used only to pay for the following:

1 (1) The lease, purchase, or maintenance of emergency telephone equipment,
2 including necessary computer hardware, software, and database
3 provisioning, addressing, telecommunicator furniture, and nonrecurring
4 costs of establishing a 911 system.

5 ...

6 (4) The lease, purchase, or maintenance of radio communications equipment
7 including necessary hardware and software, towers, base station transmitters,
8 microwave links and antennae used to dispatch emergency calls from the
9 PSAP, and the radio communications equipment used by the first provider of
10 emergency services to receive the emergency dispatch."

11 **SECTION 8.** G.S. 62A-47(a) reads as rewritten:

12 "(a) Account Established. – A PSAP Grant and Statewide 911 Projects Account is
13 established within the 911 Fund for the purpose of making grants to PSAPs in rural and other
14 high-cost ~~areas.~~ areas and funding projects that provide statewide benefits for 911 service. The
15 911 Board may approve grants for the non-eligible expenses of consolidating one or more
16 PSAPs with a primary PSAP and the relocation costs of primary PSAPs, including construction
17 costs. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and
18 G.S. 62A-46."

19 **SECTION 9.** Unless otherwise provided, this act becomes effective July 1, 2010.