

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1691
Corrected Copy 5/17/10
Committee Substitute Favorable 6/10/10

Short Title: Use of 911 Funds.

(Public)

Sponsors:

Referred to:

May 13, 2010

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

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 62A-41 reads as rewritten:

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

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

- 12 a. An individual who represents ~~municipalities~~ a municipality where a
13 primary PSAP is located appointed upon the recommendation of the
14 North Carolina League of Municipalities.
15 b. An individual who represents ~~counties~~ a county where a primary
16 PSAP is located appointed upon the recommendation of the North
17 Carolina Association of County Commissioners.
18 c. An individual who represents a VoIP provider.
19 d. An individual who represents the North Carolina chapter of the
20 National Emergency Number Association (NENA).

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

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

33 (3) Six members appointed by the General Assembly upon the recommendation
34 of the President Pro Tempore of the Senate as follows:

- 35 a. An individual who is a chief of police.



- 1 b. Two individuals who represent CMRS providers operating in North
2 Carolina.
3 c. ~~An individual who represents the North Carolina chapter of the~~
4 ~~National Emergency Number Association (NENA).~~A Rescue or
5 Emergency Medical Services Chief with experience operating or
6 supervising a PSAP upon the recommendation of the North Carolina
7 Association of Rescue & Emergency Medical Services.
8 d. Two individuals who represent local exchange carriers operating in
9 North Carolina, one of whom represents a local exchange carrier
10 with less than 200,000 access lines.

11 (4) The State Chief Information Officer or the State Chief Information Officer's
12 designee, who serves as the chair.

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

17 "

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

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

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

25 ...

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

30 ...

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

35 (9a) To design, create, or acquire printed or web-based public education materials
36 regarding the proper use of 911.

37 "

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

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

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

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

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

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

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

1 Board may use funds available to the Board under G.S. 62A-47 to pay its
2 obligations incurred for 911 Statewide Projects."

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

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

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

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

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

21 "**§ 62A-47. PSAP Grant and Statewide 911 Projects Account.**

22 ...

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

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

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

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

- 49 (1) The project is consistent with the 911 plan.
50 (2) The project is cost-effective and efficient when compared to the aggregated
51 costs incurred by primary PSAPs for implementing individual projects.

1 (3) The project is an eligible expense under G.S. 62A-46(c).

2 (4) The project will have statewide benefit for 911 service."

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

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

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

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

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

21 "(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary
22 PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a
23 distribution under this section unless it provides enhanced 911 service and received
24 distributions from the 911 Board in the prior fiscal year. The Board must notify PSAPs of the
25 estimated distributions no later than December 31 of each year. The Board must determine
26 actual distributions no later than June 1 of each year. The Board must determine a method for
27 establishing distributions that is equitable and sustainable and that ensures distributions for
28 eligible operating costs and anticipated increases for all funded PSAPs. The Board must
29 establish a formula to determine each PSAP's base amount. The formula must be determined
30 and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which
31 the formula is used. The Board must not change the funding formula for the base amount more
32 than once every year. The funding formula established by the Board must consider information
33 including population of the area served by a PSAP, PSAP reports and budgets, disbursement
34 histories, historical costs, PSAP operations, 911 technologies used by the PSAP, compliance
35 with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire,
36 Emergency Medical Services, law enforcement, Emergency Medical dispatch, and the tier
37 designation of the county in which the PSAP is located as designated in G.S. 143B-437.08, and
38 any other information deemed proper by the Board. In the first quarter of the Board's fiscal
39 year, the Board must determine whether payments to PSAPs during the preceding fiscal year
40 exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a
41 PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's
42 distribution in the following fiscal year above the base amount as determined by the formula to
43 meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not
44 distribute less than the base amount to each PSAP except as provided in subsection (b1) of this
45 section. The Board must provide a procedure for a PSAP to request a reconsideration of its
46 distribution or eligible expenses.

47 The amount to be distributed to each primary PSAP is the sum of the following:

48 (1) The PSAP's base amount. — The PSAP's base amount is the amount the
49 PSAP received in the fiscal year ending June 30, 2007, and deposited in the
50 Emergency Telephone System Fund of its local governing entity, as reported
51 to the State Treasurer's Office, Local Government Division.

- 1 (2) ~~The PSAP's per capita amount. — The PSAP's per capita amount is the~~
2 ~~PSAP's per capita share of the amount designated by the Board under~~
3 ~~subsection (b) of this section for the per capita distribution. The 911 Board~~
4 ~~must use the most recent population estimates certified by the State Budget~~
5 ~~Officer in making the per capita distribution under this subdivision. A PSAP~~
6 ~~is not eligible for a distribution under this subdivision unless it provides~~
7 ~~enhanced 911 service."~~

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

9 "**(b1) Carryforward.** – A PSAP may carry forward distributions for eligible expenditures
10 for capital outlay, capital improvements, or equipment replacement. Amounts carried forward
11 to the next fiscal year from distributions made by the Board may not be used to lower the
12 distributions in subsection (a) of this section unless the amount is greater than twenty percent
13 (20%) of the average yearly amount distributed to the PSAP in the prior two years. The Board
14 may allow a PSAP to carry forward a greater amount without changing the PSAP's
15 distribution."

16 **SECTION 6.(c)** Subsection (a) of the section becomes effective July 1, 2010, but
17 shall not apply to distributions by the Board in fiscal year beginning in 2010. Subsection (b) of
18 this section becomes effective July 1, 2011, and applies to distributions made on or after that
19 date.

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

21 "**§ 62A-40. Definitions.**

22 The following definitions apply in this Article.

23 ...

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

30 ...

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

36 "

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

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

- 43 (1) The lease, purchase, or maintenance of emergency telephone equipment,
44 including necessary computer hardware, software, and database
45 provisioning, addressing, telecommunicator furniture, dispatch equipment
46 located exclusively within a building where a primary PSAP is located
47 excluding the costs of base station transmitters, towers, microwave links and
48 antennae used to dispatch emergency call information from the PSAP, and
49 nonrecurring costs of establishing a 911 system.
50 (2) Expenditures for in-State training of 911 personnel regarding the
51 maintenance and operation of the 911 system. Allowable training expenses

1 include the cost of transportation, lodging, instructors, certifications,
2 improvement programs, quality assurance training, ~~and~~ training associated
3 with call taking, and emergency medical, fire, or law enforcement
4 ~~procedures.~~ procedures, and training specific to managing a primary PSAP or
5 supervising primary PSAP staff. Training outside the State is not an eligible
6 expenditure unless the training is unavailable in the State or the PSAP
7 documents that the training costs are less if received out-of-state. Training
8 specific to the receipt of 911 calls is allowed only for intake and related call
9 taking quality assurance and improvement. Instructor certification costs and
10 course required prerequisites, including physicals, psychological exams, and
11 drug testing, are not allowable expenditures.

12"

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

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

21 **SECTION 9.** Fifty percent (50%) of funds in the Emergency Telephone System
22 Fund on the effective date of this act may be used for providing for the public safety needs
23 provided by the entity, including costs that are not eligible expenses under G.S. 62A-46. The
24 expenditures must be made in fiscal years 2010-2011 and 2011-2012. Any local governing
25 entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-46. All
26 other funds in the Emergency Telephone System Fund must be used for eligible expenses under
27 Article 3 of Chapter 62A of the General Statutes.

28 **SECTION 10.** Unless otherwise provided, this act becomes effective July 1, 2010.