

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2010-158
HOUSE BILL 1691

AN ACT TO AMEND THE STATUTES GOVERNING EMERGENCY TELEPHONE SERVICE, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE USE OF 911 FUNDS, AND TO INCREASE FUNDS FOR SUPPLEMENTAL PEG CHANNEL SUPPORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-40 reads as rewritten:

"§ 62A-40. Definitions.

The following definitions apply in this Article.

...

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

...

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

...."

SECTION 2.(a) 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~~ a municipality where a primary PSAP is located, appointed upon the recommendation of the North Carolina League of Municipalities.
 - b. An individual who represents ~~counties~~ a county where a primary PSAP is located, 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 with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Firemen's Association.
- (3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:
- a. An individual who is a chief of police.
 - b. Two individuals who represent CMRS providers operating in North Carolina.
 - c. ~~An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).~~A Rescue or Emergency Medical Services Chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Association of Rescue and Emergency Medical Services.
 - d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.
- (4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

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

...."

SECTION 2.(b) Other than the positions removed by this act or individuals prohibited from serving on the Board due to duplicate representation prohibited by this act, the existing members of the 911 Board shall continue to serve until the expiration of their original terms. An existing member may not be reappointed to the Board if he or she has served two terms on the 911 Board.

SECTION 3. G.S. 62A-42 reads as rewritten:

"§ 62A-42. Powers and duties of the 911 Board.

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

- ...
- (4) ~~To establish policies and procedures to fund advisory services and training for PSAPs~~PSAPs, to set operating standards for PSAPs, and to provide funds in accordance with these ~~policies and procedures.~~policies, procedures, and standards.
- ...
- (6a) To use funds available to the 911 Board under G.S. 62-47 to pay its obligations incurred for statewide 911 projects.
- ...
- (8a) To design, create, or acquire printed or Web-based public education materials regarding the proper use of 911.

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

...

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

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

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

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

"(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses ~~up to one percent (1%)~~ a percentage of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The percentage may not exceed two percent (2%). The percentage is one percent (1%) unless the 911 Board sets the percentage at a different amount. The 911 Board must monitor the amount of funds required to meet its financial commitment to provide technical assistance to primary PSAPs and set the rate at an amount that enables the 911 Board to meet this commitment. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

- (1) A percentage of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.
- (2) A percentage of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.
- (3) The percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs shall be set by the 911 Board and may be adjusted by the 911 Board as necessary to ensure full cost recovery for CMRS providers and, to the extent there are excess funds, for distributions to primary PSAPs."

SECTION 6. G.S. 62A-45(c) reads as rewritten:

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

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

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

SECTION 7.(a) G.S. 62A-46(a) reads as rewritten:

"(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it provides enhanced 911 service and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board must comply with all of the following:

- (1) Administration. – The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that ensures distributions for eligible operating costs and anticipated increases for all funded PSAPs. The Board must establish a formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.
- (2) Reports. – The Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.
- (3) Formula. – The funding formula established by the Board must consider all of the following:
 - a. The population of the area served by a PSAP.
 - b. PSAP reports and budgets, disbursement histories, and historical costs.
 - c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.
 - d. The tier designation of the county in which the PSAP is located as designated in G.S. 143B-437.08.
 - e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.
 - f. Any other information the Board considers relevant.
- (4) Additional distributions. – In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (b1) of this section. The Board must provide a

procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

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

- ~~(1) The PSAP's base amount. — The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007, and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.~~
- ~~(2) The PSAP's per capita amount. — The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911 Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service."~~

SECTION 7.(b) G.S. 62A-46 is amended by adding a new subsection to read:

"(b1) Carryforward. – A PSAP may carry forward distributions for eligible expenditures for capital outlay, capital improvements, or equipment replacement. Amounts carried forward to the next fiscal year from distributions made by the 911 Board may not be used to lower the distributions in subsection (a) of this section unless the amount is greater than twenty percent (20%) of the average yearly amount distributed to the PSAP in the prior two years. The 911 Board may allow a PSAP to carry forward a greater amount without changing the PSAP's distribution."

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

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

- (1) ~~The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system of:~~
 - a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.
 - b. Addressing.
 - c. Telecommunicator furniture.
 - d. Dispatch equipment located exclusively within a building where a PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the PSAP.
- (1a) The nonrecurring costs of establishing a 911 system.
- (2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, ~~and~~ training associated with call taking, and emergency medical, fire, or law enforcement ~~procedures.~~procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call

taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

...."

SECTION 7.(d) G.S. 62A-46(e) is amended by adding a new subdivision to read:

"(5) A primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board."

SECTION 7.(e) Subsection (a) of this section becomes effective July 1, 2010, and applies to distributions by the Board in fiscal years beginning in 2011. Subsection (b) of this section becomes effective July 1, 2011, and applies to distributions made on or after that date. Subsection (d) of this section becomes effective July 1, 2011.

SECTION 8. G.S. 62A-47 reads as rewritten:

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

(a) Account Established. – A PSAP Grant and Statewide 911 Projects Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost ~~areas~~areas and funding projects that provide statewide benefits for 911 service. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46.

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

- (1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.
- (2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.
- (3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.
- (4) The costs are authorized PSAP costs under ~~G.S. 62A-46(e)~~ G.S. 62A-46(c), or the costs are for consolidating one or more PSAPs with a primary PSAP, or the relocation costs of primary PSAPs, including costs not authorized under G.S. 62A-46(c) and construction costs.

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

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

- (1) The project is consistent with the 911 plan.
- (2) The project is cost-effective and efficient when compared to the aggregated costs incurred by primary PSAPs for implementing individual projects.
- (3) The project is an eligible expense under G.S. 62A-46(c).

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

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

SECTION 10. The House Select Committee on the Use of 911 Funds shall study the funding of secondary PSAPs and whether secondary PSAPs should be eligible to receive distributions from the 911 Board.

SECTION 11.(a) G.S. 66-359 is repealed.

SECTION 11.(b) G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Channel Support. – G.S. 105-164.44J sets out the requirements for receipt by a county or city of supplemental PEG channel support funds distributed under this subsection. The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of the share of each qualifying PEG channel certified by the city or county under G.S. 105-164.44J. The share of each certified PEG channel is the sum of four million dollars (\$4,000,000) and the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d) divided by the number of PEG channels certified under G.S. 105-164.44J.~~one fourth of twenty five thousand dollars (\$25,000) for each qualifying PEG channel certified by the county or city under G.S. 105-164.44J.~~ A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.

~~The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year, plus the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d). If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than this maximum amount, the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359. For purposes of this subsection, the term "qualifying PEG channel" has the same meaning as in G.S. 105-164.44J."~~

SECTION 11.(c) G.S. 105-164.44J(b) reads as rewritten:

"(b) Certification. – A county or city must certify to the Secretary by July 15 of each year all of the qualifying PEG channels provided for its use during the preceding fiscal year by a cable service provider under either G.S. 66-357 or an existing agreement. A county or city may not certify more than three qualifying PEG channels. The certification must include all of the following:

- (1) An identification of each channel as a public, an education, or a government channel.
- (2) The name and signature of the PEG channel operator for each channel. If a qualifying PEG channel has more than one PEG channel operator, the county or city must include the name of each operator of the PEG channel. A PEG channel operator may be included on the certification of only one county or city for each type of PEG channel that it operates.
- (3) Any other information required by the Secretary."

SECTION 11.(d) Subsection (b) of this section becomes effective July 1, 2011, and applies to distributions made on or after July 1, 2011, for quarters starting on or after April 1, 2011.

SECTION 12. Unless otherwise provided, this act becomes effective July 1, 2010.
In the General Assembly read three times and ratified this the 9th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:17 p.m. this 23rd day of July, 2010