

## **House Select Committee on the Use of 911 Funds**

A meeting of the House Select Committee on the Use of 911 Funds was called to order by Representative Angela Bryant, Co-Chair, at 2:00 pm on March 16, 2010, in Room 1228 Legislative Building.

Members present included Co-Chair Representative Angela Bryant; Representative Lorene Coates; Representative Bill Faison; Representative Efton Sager.

Staff present included: Heather Fennell, Gayle Moses, Peter Capriglione, Steve Ross, and Committee Clerk Susan Whitehead.

Representative Bryant welcomed everyone. She thanked the Sergeant-at-Arms for their assistance.

The minutes from the February 23, 2010 meeting were reviewed and Representative Coates made a motion to approve. Representative Sager seconded and the minutes were approved.

Representative Bryant stated that by the end of today's meeting, she would like to have the recommendations of the committee so that staff can begin work on proposed legislation. This legislation will be reviewed at the next meeting on April 20, 2010, in order to meet the short session legislative deadline of May 1, 2010.

Representative Bryant introduced Paul Meyer, Chief Legislative Counsel for the NC League of Municipalities. Mr. Meyer thanked the committee for thoroughly discussing the 911 issues. The NC League of Municipalities supports the 911 Board Committee's proposed Operating and Training Standards. The League of Municipalities supports the formation of the PSAP grant account that will help with the high cost of equipment in order to meet the proposed standards. The League of Municipalities supports the proposal to enable local governments to purchase on state contract in order to reduce costs.

Issues that the League of Municipalities does not support include the consolidation of PSAPS. Regionalization of PSAPS in certain areas makes sense, but mandatory consolidation should not be required. The League of Municipalities does like the incentives that have been established for those PSAPs who would voluntarily consolidate their operations. Local governments should be able to decide where a higher level of emergency service is needed without putting a cap on the number of PSAPs. The League of Municipalities agrees with expanding the use of funds and does not see any reason to restrict the use of capital on dispatch, towers and transmitters. The idea of creating a sustainable PSAP funding model is good, but there should be money set aside for capital without local PSAPs having to request funds from the 911 Board each time it is needed. The 911 Boards proposal to reduce future funding from

\$.70 per month to \$.60 per month is questionable. The League of Municipalities is concerned with the drop in revenue, and potentially there will not be enough funds to respond to the upgrades that will be necessary with the new operating and training standards.

Next, Representative recognized Kevin Leonard, Director of Government Relations for the NC Association of County Commissioners, who thanked the committee for the opportunity to speak on the counties' behalf. Mr. Leonard believes that the current 911 Board does not fairly represent the people who work day-to-day in PSAPs. The general public believes that the funding stream for an emergency call begins at the time they dial 911 until the ambulance/firetruck arrives. Public policy does not support this. The association's goal is to increase flexibility of spending and increase local government representation on the board.

The NC Association of County Commissioners agrees that standards should be established for PSAPs. The standards should be established by local government representatives who do the day-to-day work such as 911 directors, call center directors, and county managers. These people interact daily with the PSAPs. The proposed legislation by Counties includes these people in their expansion of board members. Once standards are met, it is reasonable to want the flexibility to use their 911 funds for expansion items that include "up to the top of the tower". Counties believe that consolidation of PSAPs can be done when the decision is made at the local government level and where local governments believe it makes sense. Encouraging consolidation through the grant process is a good suggestion, but mandating consolidation is not supported.

The NC Association of County Commissioners has discussed the proposed funding model. They do not support the 911 Board's recommendations to take 2009's expenditures plus 10%, and the 25% to be used for expansion items for only 1 year. After the standards for the PSAPs have been established and met, a realistic funding model could be better estimated. At that time, flexible funding can then be better evaluated.

Representative Bryant asked Mr. Leonard for clarification on fund distribution. The NC Association of County Commissioners believes a percentage amount that is unknown at this time be obligated and mandated to go back to the PSAPs. The amount would be calculated on the PSAPs operational costs. Capital expenditures would be decided on a formula based mechanism based on call volume, population and a tier category based on ability to pay.

Representative Faison asked if Mr. Leonard had seen the DRAFT legislation entitled *An Act to Amend the Statutes Governing Emergency Telephone Services as Recommended by the 911 Board*. Mr. Leonard stated that he had. Representative Faison stated that there was a provision in the proposed 911 Board legislation that would not allow 911 funds to be used for emergency service providers (volunteer fire departments, EMS groups). The public in general believes the 911 funds are available

to provide to them 911 services which the public assumes to be from the time they pick up the phone until rescue. What is the position of NC Association of County Commissioners for using the funds for things other than hardware, towers, chairs and instruction? Mr. Leonard stated they support the use of the funds from the receipt of the call up to the top of the tower. They do not support using the funds for radio/communication equipment within emergency vehicles. Representative Faison asked if the Association support the limited 10% funding on equipment or fully funding the equipment. Mr. Leonard stated that once the standards are adopted the funds can be used to purchase any equipment involved in taking the call and getting the PSAP up to the standards.

Representative Bryant introduced Heather Fennell, Staff Attorney, who reviewed the differences in the draft legislation between the 911 Board (Attachment #1) and the Counties (Attachment #2).

1. Operation Standards
  - a. 911 Board recommends standards adopted by entire board
  - b. Counties recommend standards adopted by subcommittee of board comprised of local government officials, fire and rescue, sheriff and police.
    - i. Counties recommend expanding the 911 Board from 17 members to 21 members. The new members would be local government representatives.
2. Private Sector Venders
  - a. 911 Board recommends allowing private sector vendors to provide a network. The 911 Board would not operate the network, but would provide funds.
3. Administrative Expenses
  - a. 911 Board recommends raising the fee it retains for administrative expenses from 1% to 2% if the costs are warranted.
4. Distribution of Funds
  - a. 911 Board recommends raising the distribution of funds. The increase changes the base amount to 2009 current expenditures and allows additional expenditures for capital and operating expenses upon board approval.
  - b. Counties recommend that fund distribution wait until standards have been established and the PSAPs have met the standards. Once this has been done, review a new fund model.
5. Use of Funds
  - a. 911 Board recommends the following 3 components. It would immediately allow for the expansion of the funds to telecommunicator furniture and certain training expenses. It would have a temporary use of fund balances which is 25% of the cost of radio communications equipment and does not include radios by emergency responders. In 2011, a tiered funding model where once a PSAP met the operating

- standards, it could then use funds it receives for certain radio communication equipment that is within the PSAP building.
- b. Counties recommend the flexible expansion of fund use to include furniture. It has a tiered model where once a PSAP is compliant with operational standards, the local government may use any additional funds for communication devices that go to the top of the tower (base station, tower, transmitters). This would not include radio communication devices by emergency responders.
- 6. Fund Statewide Projects
  - a. 911 Board can adopt certain statewide projects if the project is consistent with the 911 Plan, is cost effective and efficient when compared to the aggregated costs incurred by primary PSAPs, project will have statewide benefit for 911 service, and project is eligible under statute.
- 7. Fund Balances
  - a. 911 Board recommends allowing 25% of the fund balance for the cost of certain radio communication equipment used to dispatch emergency call information from the PSAP, but radio communication devices used by emergency responders are not an eligible expense. This would be allowed for only 1 year.
  - b. Counties have not addressed fund balances except it is inherent in their legislation that the balances will be used to get PSAPs compliant with standards.
- 8. Consolidation
  - a. 911 Board recommends grants be given for consolidating primary PSAPs.
  - b. Counties recommend grants be used for consolidating all PSAPs.

Representative Bryant asked that under the proposed County legislation when the secondary and tertiary PSAPs consolidate, will they be funded like the primary or will they get their fund through whatever primary PSAP they are associated with. Ms. Fennel stated that the consolidating secondary and tertiary PSAPs will become a primary and then be eligible for funding under the 911 model. Representative Bryant asked for clarification about multiple PSAPs in a county. Ms. Fennel stated that some counties have multiple primary PSAPs.

Richard Taylor, Executive Director of the 911 Board, stated that there is no language about “mandatory consolidation”. “Mandatory consolidation” is an incorrect. The 911 Board encourages consolidation and that is why one-time grants are to be used for things outside, e.g., the brick and mortar, so that if there are 3 or 4 rural PSAPs with no facility where they can consolidate, this will allow them to have funding to build a consolidated facility. To further clarify Representative Bryant’s question, if secondary and tertiary PSAPs consolidate with a primary PSAP, all of the consolidated PSAPs become primary areas entitled to primary funding.

Representative Faison asked if it was the 911 Board's position that it only wants to fund to the top of the tower. Mr. Taylor responded that the 911 Board's position is to fund everything within the 4 walls of the PSAP and not to the top of the tower. The 911 Board recommends in their legislation to allow in the first year up to 25% of the fund balance to be used outside of the 4 walls, but after that one year, it would go back to funding only what is within the 4 walls of the PSAP including furniture, chairs and structure.

Representative Faison asked why the 911 Board wants to increase the administrative expense fee to 2%. North Carolina's population base is expected to grow by 1 million people over the next 10 years which means the fund will be growing anyway at an exponential rate even at the current 1%. Mr. Taylor stated that in the proposed 911 Board legislation, the 911 Board would like to take on more statewide projects. At this time, the 911 Board does not have that authority. For example, this year the board gave a grant for orthography where the entire state is photographed for the GIS system. These photos will be provided to the counties free of charge. The 911 board would like for this orthographic project to be ongoing and not a one-time project.

Representative Faison asked that if the community perceives 911 services go from the emergency call until help arrives, why does the 911 Board want to keep the funding to inside the 4 walls and not extend it out to those who need it? Mr. Taylor stated that the 911 Board had to draw a line with funding at some point and the 4 walls of the building is their choice. Representative Faison stated that he believes the 911 emergency service is a communication stream. Therefore, this communication stream begins with a call for help and ends with responders at the door.

Representative Coates asked if the 911 Board had considered using orthographic prints from the US Department of Agriculture. Mr. Taylor stated that this particular project has federal and state agencies working together to use the data. There are at least 12 state agencies and several federal agencies because so many agencies will benefit with the shared data.

Representative Coates is opposed to the specific portion of both proposed bills that would allow flexible funding of radios and towers. She is opposed to funding anything outside the 911 PSAP. Rowan County passed a \$.025 sales tax to pay for their radios and towers.

Representative Bryant introduced Herb Crenshaw representing AT&T. Mr. Crenshaw stated that his company would like to have more time to digest the contents of the proposed legislation. At this time dispatchers are funded by the county through taxes. If this burden is going to be shifted to the telephone/cable bill will the tax be reduced by the county since they are no longer funding the dispatchers? These are things that will have to be decided by public policy.

Representative Bryant opened discussion on the differences in the 911 Board and County editions of proposed legislation. Representative Bryant stated that she hoped

the discussion would help direct staff with the legislation that will be prepared for this committee's recommendations.

The Committee supports the creation of standards for PSAP operations.

Counties would like to add four (4) representatives to the 911 Board taking the number of members from 17 to 21. The new members would include a county government manager, fire/rescue official, county emergency management official, city government manager. At this time, there are 17 members consisting of 9 telco representatives, 4 local government representatives, 2 NENA, 1 APCO, 1 State Chief Information Officer. The County proposed legislation would increase the local government representatives to 11 and keep the telco representatives at 9. This would shift the balance of power to local government.

Representative Faison stated he would like to see more technical people on the board. The network improvements and upgrades are technically related. He asked for comment from stakeholders.

Mr. Meyer stated that through a study committee process, the counties came up with their recommendations for proposed legislation. There were technical representatives that were a part of the study committee, and their expertise was relied upon during the meetings. Additional appointments to the 911 Board would rely on the NC League of Municipalities and the NC Association of County Commissioners making appropriate selection with persons who have specific expertise in emergency services and management functions. The exact language could be tweaked to ensure the best candidates are selected.

Representative Bryant asked if there was a history to having more telco representatives on the 911 Board. Dwight Allen, telco representative, attempted to answer her question. When the state wireless and telco wireline boards merged in 2007 to create the 911 Board as we know it, the number of board members was more than what was desired. Their main concern was to balance the board between the private and public sectors. There is one more public member than private with the chairman being public.

As to the technical expertise of the 911 Board, there has been an evolution. At the early stages, a lot was done at the local level and this is the reason for the current inequitable funding and technology levels in the various counties. Mr. Allen stated that if there is going to be statewide standards established by a state agency then there needs to be more technical support that are permanent staff members that serve the 911 Board and PSAPs. It is the telco's hope that before the number of 911 Board members is increased, the General Assembly should consider the public/private balance that was considered upon creation and is in place now.

Representative Faison stated that he understood Mr. Allen's opposition to increasing the number of local government representatives because it gives an unfair advantage.

Representative Faison asked Mr. Allen why private sector business is present on a public sector board providing public sector services. Mr. Allen stated that it was private sector business was the tax collector and this has an impact on the telco industry. In addition, the capital requirements necessary to run a 911 system are not just capital requirements for the PSAP. There are capital requirements for the private telcos which have to provide the connectivity. This makes it a public/private partnership.

Representative Faison and Mr. Allen agreed that the 911 Board is too large at 17 members and 21 members could be very unreasonable. Representative Faison asked what Mr. Allen believed to be the ideal number. Mr. Allen responded that the makeup of the board before it was merged in 2007 was 13 members, and this was the ideal size to expect results. Mr. Allen stated that the board would need to continue to be balanced between public and private.

Mr. Faison asked Mr. Taylor if he thought that a 13 member board with 6 telco and 7 public sector members would be able to satisfactorily represent the diversity of the public interests. Mr. Taylor stated that not every interest could be represented. Should the 911 Board be made up of only 13 members, just as has happened in the past, when expertise in a subject is needed, the 911 Board will take appropriate measures to find those individuals. Mr. Taylor agreed that 13 members would be a more ideal number even than 17, but it would need to remain balanced with the chairman being neutral.

Representative Faison asked for Mr. Leonard's opinion on a smaller board. Mr. Leonard agreed that 13 members would be acceptable as long as the local government held the majority of appointments. Mr. Leonard believes that local government should have a larger number because when the 911 emergency system does not work, it is the local government that holds the responsibility and is held accountable.

Mr. Meyer concurred and added that it is the local governments that get the lawsuits also.

Representative Bryant asked Representatives Sager and Coates for their input.

Representative Sager stated he would go along with a 13 member board and the actual makeup could be determined by the stakeholders.

Representative Coates stated that 13 members would be acceptable with a 6/6 balanced split.

Representative Bryant asked staff where in the 911 Board proposed legislation it was indicated that the 911 Board could hire private vendors. Ms. Fennel stated that on page 2, lines 20-21 stated, "The 911 Board may pay private sector vendors for provisioning a network for the purpose of providing 911 service." Mr. Taylor confirmed that the 911 Board does not have the authority to pay private vendors at this time and the proposed legislation would give them this ability.

Representatives Sager and Coates agreed that this authority could remain in the committee's draft.

Representative Bryant asked for an explanation from Mr. Taylor about the fees and different funds. Ms. Fennel stated that at the last meeting there was an incomplete handout that listed Proposed Expenditure PSAP Funding Model. The blanks have been filled in and the new attachment is included in the handouts (Attachment #3). Mr. Taylor provided a handout (Attachment #4) with explanations of each individual "bucket" of money.

Representative Bryant asked that the \$.70 that is now collected by both the wireless and wireline companies that has now been reduced by the 911 Board to \$.60 as of July 1, 2010, how will this reduction affect the funds. Mr. Taylor stated that the impact would not affect the local governments, but it would impact the cost recovery fee for the wireless carriers whose funds reimburse the wireless carriers for their costs in providing Enhanced Wireless 911. These funds are held in a special account by the 911 Board and disbursed only upon approval of carriers' invoices. Leftover money from this fund has been transferred for grants to PSAPS. This fund currently has \$11,182,568.26.

Representative Coates asked Mr. Taylor to explain why Forsyth County has a negative balance in fund. Mr. Taylor stated that Forsyth County had spent their base amount allocation which is defined as the amount of money the PSAP received in the fiscal year ending June 30, 2007. The negative balance is the amount of money Forsyth County has had to borrow from their general fund. In relation to the recommendation from the NC Association of County Commissioners who would like to wait and determine a new funding model after counties meet the emergency standards, Mr. Taylor stated that Forsyth County's negative balance exemplifies the immediate need for a new funding model. Mr. Taylor stated that this current funding model that is based on June 30, 2007 has made a situation of over collecting/under collecting and needs to be corrected.

Representative Bryant asked members of the committee their input on the 911 Board raising the administrative expense fee from 1% to 2%.

Representative Bryant would like to keep this option until final legislation by the committee has been prepared because the 911 Board may ultimately have additional responsibilities.

Both Representatives Sager and Coates agreed with Representative Bryant.

Representative Bryant stated that fund distribution to each PSAP as suggested by the proposed 911 Board legislation is that every month each primary PSAP would get its base amount which is the operating expenses in 2009 plus 10% (or more as determined by the 911 Board). Each primary PSAP could make a request for a second distribution for additional capital expenditures and operating costs. The request would be made to and determined by the 911 Board.



Representative Coates stated that she would like to have no defined number in the legislation. The 911 Board is determining the fund distribution on a base amount that was determined in 2007.

Mr. Leonard stepped forward to state in the proposed County legislation, the counties would like to postpone determining the funding model base amount until after all PSAPs have met the yet to be determined standards. Once the standards are met, the funding model base amount can be determined. Mr. Leonard pointed out the 911 Boards recommendation of the 2007 base amount plus 10% is based on a limited use of the funds. It is not an actual picture of what was spent that year for all items available under the expanded uses.

Representative Sager agreed with Mr. Leonard and thought that the funding model base amount should be postponed until proposed standards are met.

Representative Bryant stated that the current base amount has created a situation in which a lot of counties are either over collecting or under collecting. This is a concern because if the fund model is not changed immediately, waiting could exacerbate the under/over collection problem. On the other hand, if the 911 Board is granted more discretion over the amount of money local PSAPs receive then the makeup of the 911 Board becomes more important.

Both Representatives Bryant and Coates would like to review the funding now.

Representative Bryant opened discussion on the use of the funds. Every member of the committee agrees that furniture for the telecommunicator is an acceptable use. The issue is how to fund the purchase of additional equipment.

The 911 Board would allow counties to use 25% of their fund balance for one year for the purchase of radio communications (up to the tower) but no radios. After that, there would be a tiered component where PSAPs compliant to the standards could then use a portion of their funds for radio equipment inside the walls of the PSAP.

The County believes that once counties are compliant with standards, there would be a tiered model but would like to use the funds up to the tower.

Representative Coates opposes any amount of fund going to the top of the tower.

Representative Sager supports the use of the money unrestricted to the top of the tower once the standards are met.

Representative Bryant stated that the statewide project provision in the 911 Board proposed legislation uses the 1% to 2% increase in the administrative expenses. Mr. Taylor stated that in addition to increasing the administrative expenses fee, it gives the 911 Board the authority to do statewide projects.

Representatives Bryant, Coates and Sager all support giving the 911 Board the authority to do statewide project.

Representatives Bryant, Sager and Faison would like the funds to pay for radios. Representative Coates is opposed to allowing the purchase of radios with the funds.

Representative Bryant reviewed the grants for consolidation. Ms. Fennel re-stated that consolidation is not mandatory. In the 911 Boards proposed legislation, grants are available to only to primary PSAPs to consolidate. Secondary and tertiary PSAPs can consolidate with primary PSAPs and they would be eligible for grants. The County proposed legislation allows all PSAPs including secondary and tertiary PSAPs to be eligible for grants. Mr. Leonard stated that by allowing secondary and tertiary PSAPs to be eligible for grants is to encourage consolidation although not necessarily consolidation with a primary PSAP. The overall goal is to reduce the number of PSAPs.

Representative Bryant stated that we have reviewed the differences in proposed legislation. Between now and the next meeting scheduled for April 20, 2010, staff will prepare proposed legislation to be circulated and reviewed by all stakeholders and feedback exchanged with the hope that proposed legislation can be adopted at the next meeting. There is the possibility we will not agree on language and will have to meet again after April 20 to adopt the report.

There being no further business, Representative Bryant adjourned the meeting.

Respectfully submitted,

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Representative Angela Bryant, Co-Chair

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Representative Lucy Allen, Co-Chair

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Susan H. Whitehead, Committee Clerk