

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-261
HOUSE BILL 730**

AN ACT TO CREATE A NEXT GENERATION 911 RESERVE FUND TO IMPLEMENT NEXT GENERATION 911; TO REQUIRE PSAPS TO IMPLEMENT NEXT GENERATION 911; TO AUTHORIZE THE 911 BOARD TO ESTABLISH PURCHASING AGREEMENTS FOR STATEWIDE PROCUREMENT; TO ALLOW THE PSAP GRANT ACCOUNT TO BE USED FOR EXPENSES USED TO ENHANCE 911 SERVICE; TO AMEND THE LIMITATION OF LIABILITY FOR THE 911 SYSTEM; TO UPDATE THE 911 STATUTES TO INCLUDE NEW TECHNOLOGY; AND TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

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

"§ 62A-40. Definitions.

The following definitions apply in this Article.

...
(4a) 911 system provider. – An entity that provides a 911 system to a PSAP.

~~(4a)~~(4b) Back-up PSAP. – The capability to operate as part of the 911 System and all other features of its associated primary PSAP. The term includes a back-up PSAP that receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP.

...
(14a) Next generation 911 system. – An IP-enabled emergency communications system using Internet Protocol, or any other available technology, to enable the user of a communications service to reach an appropriate PSAP by sending the digits 911 via dialing, text, or short message service (SMS), or any other technological means.

(14b) Next generation 911 system provider. – An entity that provides a next generation or IP-enabled 911 system to a PSAP."

SECTION 1.(b) G.S. 62A-42(a)(1) reads as rewritten:

"(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in ~~voice~~-communications service technology utilized for the 911 system and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, ensure individual PSAP plans incorporate a back-up PSAP, and formulate strategies for the efficient and effective delivery of enhanced 911 service."

SECTION 1.(c) G.S. 62A-42(b) reads as rewritten:

"(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 communications network for the purpose of providing citizens access to 911 service.~~services and completing call-taking processes through one or more PSAPs.~~"

SECTION 1.(d) G.S. 62A-44 reads as rewritten:

"§ 62A-44. 911 Fund.

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 62A-43 on ~~voice~~



communications service connections in the State. Revenue in the Fund may only be used as provided in this Article.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses 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 911 Board must allocate ten percent (10%) of the total service charges to the Next Generation 911 Reserve Fund to be administered as provided in G.S. 62A-47. 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, other than the funds remitted by the Department of Revenue from prepaid wireless telecommunications service, 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, all funds remitted by the Department of Revenue from prepaid wireless telecommunications service, 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 1.(e) G.S. 62A-46(a)(3) is amended by adding a new sub-subdivision to read:

"e1. Any expenditure authorized by the 911 Board for statewide 911 projects or the next generation 911 system."

SECTION 1.(f) G.S. 62A-47 reads as rewritten:

"§ **62A-47. PSAP Grant and Statewide 911 Projects ~~Account.~~ Account; Next Generation 911 Reserve Fund.**

(a) Account and Fund 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 and funding projects that provide statewide benefits for 911 service. The PSAP Grant and Statewide 911 Projects Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46. The Next Generation 911 Reserve Fund is established as a special fund for the purpose of funding the implementation of the next generation 911 systems as approved by the 911 Board.

(b) PSAP Grant and Statewide 911 Projects Grant Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant and Statewide 911 Projects 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(c), or the costs are~~ for consolidating one or more PSAPs with a primary PSAP, or the relocation costs of primary PSAPs, or capital expenditures that enhance the 911 system, including costs not authorized under G.S. 62A-46(c) and construction costs.

(c) PSAP Grant and Statewide 911 Projects Grant Agreement. – A ~~grant~~ PSAP Grant and Statewide 911 Projects 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 PSAP Grant and Statewide 911 Projects Account and funds from the Next Generation 911 Reserve Fund 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.

(e) Next Generation 911 Fund. – The 911 Board may use funds from the Next Generation 911 Fund to fund the implementation of next generation 911 systems. Notwithstanding Article 8 of Chapter 143C of the General Statutes, the 911 Board may expend funds from the Next Generation 911 Fund to provide for a single data network to serve PSAPs. The 911 Board may provide funds directly to PSAPs to implement next generation 911 systems. By October 1 of each year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations on the expenditures from the Next Generation 911 Fund for the prior fiscal year and on the planned expenditures from the Fund for the current fiscal year."

SECTION 2. G.S. 62A-42(a)(4) reads as rewritten:

- "(4) To establish cooperative purchasing agreements or other contracts for the procurement of goods and services, to establish policies and procedures to fund advisory services and training for PSAPs, to set operating standards for PSAPs and back-up PSAPs, and to provide funds in accordance with these policies, procedures, and standards."

SECTION 3. G.S. 62A-53 reads as rewritten:

"§ 62A-53. Limitation of liability.

(a) Except in cases of wanton or willful misconduct, a ~~voice~~ communications service provider-provider, and a 911 system provider or next generation 911 system provider, and its their employees, directors, officers, vendors, and agents are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system or in complying with emergency-related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor vehicle. The acts and omissions described in this section include, but are not limited to, the following:

- (1) The release of subscriber information related to emergency calls or emergency services.
- (2) The use or provision of 911 service, E911 service, or next generation 911 service.
- (3) Other matters related to 911 service, E911 service, or next generation 911 service.

(b) In any civil action by a user of 911 services or next generation 911 services arising from an act or an omission by a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity of the PSAP, in the performance of any lawful and prescribed actions pertaining to their assigned job duties as a 911 or public safety telecommunicator or dispatcher at a PSAP or at any public safety agency to which 911 calls are

transferred from a primary PSAP for dispatch of appropriate public safety agencies, the plaintiff's burden of proof shall be by clear and convincing evidence."

SECTION 4.(a) G.S. 62A-40 reads as rewritten:

"§ 62A-40. Definitions.

The following definitions apply in this Article.

- ...
- (4) 911 system. – An emergency ~~telephone~~ communications system using any available technology that does all of the following:
- a. Enables the user of a ~~voice~~ communications service connection to reach a PSAP by dialing the digits 911.
 - b. Provides enhanced 911 service.

- ...
- (6a) Communications service. – Any of the following:
- a. The transmission, conveyance, or routing of real-time communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, Internet protocol, or other medium or method, regardless of the protocol used.
 - b. The ability to receive and terminate voice calls, messages, videos, data, or other forms of communication to, from, and between the public switched telephone network, wireless networks, IP-enabled networks, or any other communications network.
 - c. Interconnected VoIP service.

- (6b) Communications service connection. – Each telephone number or trunk assigned to a residential or commercial subscriber by a communications service provider, without regard to technology deployed.

- (6c) Communications service provider. – An entity that provides communications service to a subscriber.

- ...
- (17) Proprietary information. – Subscriber lists, technology descriptions, technical information, or trade secrets that are developed, produced, or received internally by a ~~voice~~ communications service provider or by a ~~voice~~ communications service provider's employees, directors, officers, or agents.

- ...
- (20) Subscriber. – A person who purchases a ~~voice~~ communications service and is able to receive it or use it periodically over time.

- (21) Voice communications service. – Any of the following:
- a. The transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used.
 - b. The ability to receive and terminate voice calls to and from the public switched telephone network.
 - c. Interconnected VoIP service.

- (22) ~~Voice communications service connection. – Each telephone number assigned to a residential or commercial subscriber by a voice communications service provider, without regard to technology deployed.~~

- (23) ~~Voice communications service provider. – An entity that provides voice communications service to a subscriber.~~

...."

SECTION 4.(b) G.S. 62A-42(a)(8) reads as rewritten:

- "(8) To undertake its duties in a manner that is competitively and technologically neutral as to all ~~voice~~ communications service providers."

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

"§ 62A-43. Service charge for 911 service.

- (a) Charge Imposed. – A monthly 911 service charge is imposed on each active ~~voice~~ communications service connection that is capable of accessing provides access to the 911 system. ~~system through a voice communications service.~~ The service charge for service other

than prepaid wireless telecommunications service is seventy cents (70¢) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the ~~voice communications service provider~~ provider of the voice communications service. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service.

...

(c) Remittance to 911 Board. – A ~~voice communications service provider~~ must remit the service charges collected by it under subsection (a) of this section to the 911 Board. The provider must remit the collected service charges by the end of the calendar month following the month the provider received the charges from its subscribers. A provider may deduct and retain from the service charges it receives from its subscribers and remits to the 911 Board an administrative allowance equal to the greater of one percent (1%) of the amount of service charges remitted or fifty dollars (\$50.00) a month.

(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charges imposed by this section. If the 911 Board determines that the rates produce revenue that exceeds or is less than the amount needed, the 911 Board may adjust the rates. The rates must ensure full cost recovery for ~~voice communications service providers~~ and for primary PSAPs over a reasonable period of time. The 911 Board must set the service charge for prepaid wireless telecommunications service at the same rate as the monthly service charge for nonprepaid service. A change in the rate becomes effective only on July 1. The 911 Board must notify providers of a change in the rates at least 90 days before the change becomes effective. The 911 Board must notify the Department of Revenue of a change in the rate for prepaid wireless telecommunications service at least 90 days before the change becomes effective. The Department of Revenue must provide notice of a change in the rate for prepaid wireless telecommunications service at least 45 days before the change becomes effective only on the Department's Web site.

(e) Collection. – A ~~voice communications service provider~~ has no obligation to take any legal action to enforce the collection of the service charge billed to a subscriber. The 911 Board may initiate a collection action, and reasonable costs and attorneys' fees associated with that collection action may be assessed against the subscriber. At the request of the 911 Board, but no more than annually, a ~~voice communications service provider~~ must report to the 911 Board the amount of the provider's uncollected service charges. The 911 Board may request, to the extent permitted by federal privacy laws, the name, address, and telephone number of a subscriber who refuses to pay the 911 service charge.

....."

SECTION 4.(d) G.S. 62A-44(b)(2) reads as rewritten:

"(2) A percentage of the funds remitted by CMRS providers, all funds remitted by the Department of Revenue from prepaid wireless telecommunications service, 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."

SECTION 4.(e) G.S. 62A-46(c)(3) reads as rewritten:

"(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the ~~voice communications service provider~~ for all 911 installation, service, equipment, operation, and maintenance charges owed to the ~~voice communications service provider~~. A PSAP may contract with a ~~voice communications service provider~~ on terms agreed to by the PSAP and the provider."

SECTION 4.(f) G.S. 62A-48 reads as rewritten:

"§ 62A-48. Recovery of unauthorized use of funds.

The 911 Board must give written notice of violation to any ~~voice communications service provider~~ or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the ~~voice communications service provider~~ or PSAP must cease making any unauthorized expenditures. The ~~voice communications service provider~~ or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the

expenditures were in fact unauthorized, the 911 Board may require the ~~voice~~ communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a ~~voice~~ communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken."

SECTION 4.(g) G.S. 62A-51 reads as rewritten:

"§ 62A-51. Subscriber records.

Each CMRS provider must provide its 10,000 number groups to a PSAP upon request. This information remains the property of the disclosing CMRS provider and must be used only in providing emergency response services to 911 calls. CMRS ~~voice~~ communications service provider connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person may disclose or use, for any purpose other than the 911 system, information contained in the database of the telephone network portion of a 911 system."

SECTION 4.(h) G.S. 62A-52 reads as rewritten:

"§ 62A-52. Proprietary information.

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Article is not subject to disclosure under Chapter 132 of the General Statutes, and it may not be released to any person other than to the submitting ~~CMRS voice~~ communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting ~~CMRS voice~~ communications service provider. Proprietary information is considered a trade secret under the Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the 911 Board or the State Auditor may be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual ~~CMRS voice~~ communications service provider."

SECTION 5.(a) If House Bill 117, 2015 Regular Session of the General Assembly is enacted, G.S. 105-164.13(65), as enacted by Section 6(b) of House Bill 117, 2015 Regular Session of the General Assembly, reads as rewritten:

"(65) ~~The sale, lease, or rental of an engine provided with an operator to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series.~~ For purposes of this subdivision, the term "sale" includes gross receipts derived from an agreement to provide an engine to a professional motorsports racing team or related member of a team for use in competition in a sanctioned race series, where such agreement does not meet the definition of a "service contract" as defined in G.S. 105-164.3 but may meet the definition of the term "lease or rental" as defined in G.S. 105-164.3. This subdivision expires January 1, 2020.

SECTION 5.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(65a) An engine or a part to build or rebuild an engine for the purpose of providing an engine under an agreement to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series. This subdivision expires January 1, 2020.

SECTION 6. Sections 1 through 4 of this act become effective January 1, 2016.
The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of
September, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Paul Stam
Presiding Officer of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:00 p.m. this 30th day of September, 2015