
Coates' Canons Blog: Changes to Statewide 911 System that Impact Local Governments

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Article: <https://canons.sog.unc.edu/changes-to-statewide-911-system-and-distributions-to-local-governments/>

This entry was posted on August 05, 2010 and is filed under Finance & Tax, State-shared Revenue

In 2007 the General Assembly enacted legislation (effective January 1, 2008) establishing a consolidated system for administering both wireline and wireless 911 systems across the State. (Prior to that date, the Wireless 911 Board administered a statewide wireless 911 system, and local governments administered wireline (landline) 911 systems.) The Act (**S.L. 2007-383 (H1755)**) created a new 911 Board and authorized the Board to develop a comprehensive state plan for communicating 911 call information across networks and among public safety answering points (PSAPs)—defined as the public safety agencies that receive incoming 911 calls and dispatch appropriate public safety agencies to respond to the calls.

The Act also authorized the 911 Board to levy a monthly service charge on each active voice communications service connection (defined as each telephone number assigned to a residential or commercial subscriber by a voice communications service provider) which is capable of accessing the 911 system. It set the monthly service charge at 70 cents (requiring the 911 Board to reduce the fee under certain circumstances). And the Act directed that certain proceeds from the 911 charge be remitted to qualifying primary PSAPs (first point of reception of 911 calls) according to a statutory formula. Other proceeds from the 911 charge were reserved for grants to PSAPs in rural and high-cost areas. The Act required that local governments that received 911 funds deposit the monies in Emergency Telephone System Fund accounts and expend the funds only for a limited number of statutory purposes.

The General Assembly modified the statutory allocation of 911 funds in 2008 (**S.L. 2008-134 (S1704)**) to give the 911 Board greater flexibility in determining the appropriate distribution of 911 funds among PSAPs and other qualifying entities. And, in 2009, the **S.L. 2009-574 (H945)** authorized a study committee to, among other things, review expanding the allowable uses of 911 funds by PSAPs.

This year the General Assembly enacted **S.L. 2010-158 (H1691)**, which made further changes to the new 911 system, including modifying the membership of the 911 Board, altering the distribution of 911 funds to primary PSAPs, and expanding the allowable use of 911 funds by the PSAPs.

Membership on 911 Board

The Act amends **G.S. 62A-41** to modify the composition of the seventeen-member 911 Board. It specifies that among the four members appointed by the Governor, one must be an individual who represents a municipality where a primary PSAP is located, and one must be an individual who represents a county where a primary PSAP is located. Furthermore, among the members appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate must be a fire chief with experience operating or supervising a PSAP and a rescue or emergency medical services chief with experience operating or supervising a PSAP. The Act limits membership on the Board to no more than two four-year terms.

911 Charge

As stated above, **G.S. 62A-43** authorizes the 911 Board to assess a 70 cent monthly service charge on each active voice communications service connection. The charge is payable by the subscriber to the voice communications service provider. The Board is directed to reduce the monthly charge if it determines that the rate produces revenue that exceeds the amount required for full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. **S.L. 2010-158 (H1691)** now allows the 911 Board to also increase the monthly charge if the Board determines that the revenue generated is not sufficient to ensure full cost recovery. The Board may change the rate once per year, effective on July 1.

Distribution of 911 Funds

The Act amends **G.S. 62A-46(a)** to provide even greater discretion to the 911 Board to make distributions to qualifying entities, including primary PSAPs. Beginning with the fiscal year 2011-2012, the 911 Board must develop a funding formula to determine each eligible primary PSAP's share of 911 funds and publish the formula during the first quarter of the fiscal year preceding the distribution. A primary PSAP is not eligible for a distribution unless it provides enhanced 911 service and unless it received distributions from the 911 Board in the 2008-2009 fiscal year. Furthermore, effective July 1, 2011, a primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board in order to receive a distribution of 911 funds.

In developing the funding formulas, the Board must take into consideration a number of statutorily-specified factors, including the following:

- The population of the areas served by a PSAP
- PSAP reports and budgets, disbursement histories, and historical costs
- 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
- The tier designation of the county in which the PSAP is located
- 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

The Board only may change a funding formula once per year. The Board must notify eligible primary PSAPs of their estimated distributions by December 31 each year and determine actual distributions by June 1 each year.

The Act also authorizes the Board to make additional distributions to a primary PSAP if the Board determines that the payments to the PSAP during the preceding fiscal year were less than the eligible costs incurred by the primary PSAP. The Board must develop a procedure for a PSAP to request reconsideration of its distribution or eligible expenses.

Effective July 1, 2011, the Act authorizes a primary PSAP to carry forward to the next fiscal year distributions for eligible expenditures for capital outlay, capital improvements, or equipment replacement. If the amount carried forward by a primary PSAP exceeds 20 percent of the average yearly amount distributed to the primary PSAP in the prior two years, the Board may, but does not have to, lower the primary PSAP's distribution. Otherwise, the Board may not lower a primary PSAP's distribution below the base amount as determined by the formula established by the Board.

Use of 911 Funds

One of the biggest complaints local government officials voiced about the 911 fund distributions was the limitations on the use of the funds. Expenditures basically were not allowed for dispatch equipment. The Act addresses this concern by expanding the use of the 911 proceeds by primary PSAPs. Distributions received by a primary PSAP may be used to pay for the lease, purchase, or maintenance of: emergency telephone equipment, including necessary computer hardware, software, and database provisioning; addressing; telecommunicator furniture; and 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. Proceeds also may be used to fund the nonrecurring costs of establishing a 911 system and to support certain training activities.

Finally, if a local government has excess 911 proceeds in its Emergency Telephone System Fund (ETSF), the unit may use 50 percent of the monies in the ETSF account as of July 1, 2010, 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.

Note that the Act makes some additional changes to the 911 System that are not summarized in this post. Click **here** to view all of the bill's provisions.



Links

- www.ncleg.net/Sessions/2007/Bills/House/PDF/H1755v7.pdf
- www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H945v7.pdf
- www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H1691v7.pdf
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_62A/GS_62A-41.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_62A/GS_62A-43.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_62A/GS_62A-46.html