

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1755
Committee Substitute Favorable 5/4/07
Committee Substitute #2 Favorable 6/4/07

Short Title: Coordinate Statewide Enhanced 911 System.

(Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

1 AN ACT TO MODERNIZE AND IMPROVE THE ADMINISTRATION OF THE
2 STATE'S 911 SYSTEM THROUGH A STATEWIDE 911 EMERGENCY
3 LOCATING BOARD, ENSURING THAT ALL VOICE SERVICES
4 CONTRIBUTE TO THE 911 SYSTEM, AND PROVIDING PARITY IN THE
5 QUALITY OF SERVICE AND THE LEVEL OF 911 CHARGES ACROSS VOICE
6 COMMUNICATIONS SERVICE PROVIDERS.
7

8 Whereas, maintaining an efficient Enhanced 911 system across the State
9 benefits all citizens and not just certain localities; and

10 Whereas, the Wireless 911 Board has successfully administered the statewide
11 wireless Enhanced 911 system for many years; and

12 Whereas, local governments have administered a similar wireline Enhanced
13 911 system for their local jurisdictions; and

14 Whereas, the average monthly 911 service charges paid to local governments
15 by local exchange company customers exceeds the average monthly 911 service charges
16 paid to the Wireless 911 Board by wireless company customers, thereby creating an
17 unfair competitive advantage for wireless companies; and

18 Whereas, some VoIP-enabled providers do not currently support the
19 Enhanced 911 system by collecting 911 service charges; and

20 Whereas, the consolidation of the State's Enhanced 911 system under a single
21 board with a uniform 911 service charge will improve the integration of the State's 911
22 system, enhance efficiency and accountability, and create a level competitive playing
23 field among voice communications technologies; Now, therefore,

24 The General Assembly of North Carolina enacts:

25 **SECTION 1.** G.S. 62A-1 through G.S. 62A-32 are repealed.

26 **SECTION 2.** The General Statutes are amended by adding a new Chapter to

27 read:

"Chapter 62B.

28

1 "Article 1.

2 "Public Safety Telephone Service.

3 "**§ 62B-1. Definitions.**

4 The following definitions apply in this Article.

- 5 (1) 911 Fund. – The North Carolina 911 Fund required to be established
6 and maintained pursuant to G.S. 62B-5.
- 7 (2) 911 System. – An emergency telephone system that provides the user
8 of a voice communications service connection the ability to reach a
9 PSAP by dialing the digits 911 and complements an Enhanced 911
10 system.
- 11 (3) Active prepaid wireless telephone service. – A prepaid wireless
12 telephone service that has been used by the customer during the month
13 to complete a telephone call for which the customer's card or balance
14 was decremented.
- 15 (4) Automatic location identification or "ALI". – An Enhanced 911
16 service capability that enables the automatic display of information
17 defining the approximate geographic location of the caller who places
18 a 911 call in accordance with the FCC Order and includes
19 pseudoautomatic number identification.
- 20 (5) Automatic number identification or "ANI". – An Enhanced 911
21 service capability that enables the automatic display the telephone
22 number used to place a 911 call.
- 23 (6) Board. – The 911 Emergency Locating Board.
- 24 (7) "CMRS" or Commercial Mobile Radio Service. – As defined under
25 sections 3(27) and 332(d) of the Federal Telecommunications Act of
26 1996, 47 U.S.C. § 151, et seq., and the Omnibus Budget
27 Reconciliation Act of 1993, Pub. L. 103-66, August 10, 1993, 107
28 Stat. 312. It includes the term "wireless" and service provided by any
29 wireless two-way voice communication device, including
30 radio-telephone communications used in cellular telephone service,
31 personal communications service, or the functional competitive
32 equivalent of a radio-telephone communications line used in cellular
33 telephone service, a personal communications service, SMR mobile
34 service, or a network radio access line which has access to E911
35 service.
- 36 (8) CMRS connection. – Each mobile handset telephone number assigned
37 to a CMRS customer with a place of primary use in North Carolina.
- 38 (9) CMRS provider. – A person or entity, facilities-based and
39 nonfacilities-based, who is licensed by the FCC to provide CMRS
40 service or is reselling CMRS service.
- 41 (10) Eligible PSAPs. – Those public safety answering points that provide or
42 operate 911 or Enhanced 911 systems.
- 43 (11) Enhanced 911 State plan. – A document prepared, maintained, and
44 updated by the 911 Board that provides for all aspects of the State's

1 integrated Enhanced 911 system, including the Board's determination
2 of permitted uses of moneys from the 911 Fund and the amounts
3 disbursed from the Fund to voice communications service providers
4 and PSAPs.

5 (12) Enhanced 911 system. – An emergency telephone system that provides
6 the user of the voice communications service connection with 911
7 system service and, in addition, with respect to wireless 911 service,
8 directs 911 calls to appropriate PSAPs by selective routing based on
9 the geographical location from which the call originated and provides
10 the capability for ANI (or Pseudo-ANI) and ALI features, in
11 accordance with the requirements of the FCC Order.

12 (13) Exchange access facility. – The access from a subscriber's premises to
13 the telephone system of a service supplier. The term includes service
14 supplier provided access lines, PBX trunks, and centrex network
15 access registers, as defined by tariffs of telephone companies as
16 approved by the North Carolina Utilities Commission. The term does
17 not include service supplier owned and operated telephone pay station
18 lines, or Wide Area Telecommunications Service (WATS), Foreign
19 Exchange (FX), or incoming only lines.

20 (14) FCC Order. – The Order of the Federal Communications Commission,
21 FCC Docket No. 94-102, adopted on December 1, 1997.

22 (15) GIS mapping. – The development of a computerized geographical
23 display system of roads and structures where emergency response may
24 be required.

25 (16) Local exchange carrier. – Any entity that is authorized to engage in the
26 provision of telephone exchange service or exchange access in North
27 Carolina.

28 (17) Mobile set telephone number. – The number assigned to a CMRS
29 connection, including the 10-digit number assigned to a CMRS mobile
30 phone.

31 (18) Prepaid wireless telephone service. – Wireless telephone service for
32 which no monthly invoices are received, that is activated in advance
33 by payment for a finite dollar amount of service or for a finite set of
34 minutes that terminate either upon use by a customer and delivery by a
35 CMRS provider or reseller of an agreed upon amount of service
36 corresponding to the total dollar amount paid in advance or within a
37 certain period of time following the initial purchase or activation
38 unless additional payments are made.

39 (19) Primary PSAP. – The first point of reception of a 911 call by a public
40 safety answering point.

41 (20) Proprietary information. – Customer lists and other related
42 information, technology descriptions, technical information, or trade
43 secrets, including the term "trade secrets" as defined by the North
44 Carolina Trade Secrets Protection Act, G.S. 66-152, and the actual or

1 developmental costs of Enhanced 911 systems that are developed,
2 produced, or received internally by a voice communications service
3 provider or by a voice communications service provider's employees,
4 directors, officers, or agents.

5 (21) "PSAP" or public safety answering point. – The public safety agency
6 that receives incoming 911 calls and dispatches appropriate public
7 safety agencies to respond to such calls.

8 (22) Pseudoautomatic number identification or "Pseudo-ANI". – A wireless
9 Enhanced 911 service capability that enables the automatic display of
10 the number of the cell site or cell face and is used to identify the
11 approximate location of a wireless caller.

12 (23) Service supplier. – A person or entity who provides exchange
13 telephone service to a telephone subscriber.

14 (24) Subscriber. – A person who subscribes to a CMRS service or prepaid
15 wireless service.

16 (25) Voice communications service connection. – Each telephone number
17 assigned to a customer by a voice communications service provider,
18 either residential or commercial. When a person, business, or
19 organization has several telephone access lines, each exchange access
20 facility shall constitute a separate connection.

21 (26) Voice communications service. – A service that includes: (i) the
22 transmission, conveyance, or routing of real-time, two-way
23 communications to a point or between or among points by or through
24 any electronic, radio, satellite, cable, optical, microwave, wireline,
25 wireless, or other medium or method now in existence or hereafter
26 devised, regardless of the protocol used for the transmission or
27 conveyance, and (ii) the ability to receive and terminate voice calls to
28 and from the public switched telephone network. The term also
29 includes interconnected VoIP service as defined by the FCC in 47
30 C.F.R. § 9.3. "Voice communications service" does not include data
31 lines.

32 (27) Voice communications service provider. – Any person or entity that
33 provides voice communications service as defined in this Article. The
34 term does not include any person or entity that resells voice
35 communications service and was assessed the 911 service charge by its
36 resale supplier.

37 (28) VoIP provider. – Any person or entity that provides interconnected
38 VoIP service as defined by the FCC in 47 C.F.R. § 9.3.

39 **§ 62B-2. 911 Emergency Locating Board.**

40 (a) Board Membership. – There is created a 911 Emergency Locating Board,
41 consisting of 17 members as follows:

42 (1) Four members appointed by the Governor, one upon the
43 recommendation of the North Carolina League of Municipalities, one
44 upon the recommendation of the North Carolina Association of County

1 Commissioners, one representing a VoIP provider, and one
2 representing the North Carolina chapter of the National Emergency
3 Number Association (NENA).

4 (2) Six members appointed by the General Assembly upon the
5 recommendation of the Speaker of the House of Representatives, one
6 of whom shall be a sheriff, two representing CMRS providers licensed
7 to do business in North Carolina, one representing the North Carolina
8 chapter of the Association of Public Safety Communications Officials
9 (APCO), and two representing local exchange carriers licensed to do
10 business in North Carolina, one of whom shall represent a local
11 exchange carrier with less than 50,000 access lines.

12 (3) Six members appointed by the General Assembly upon the
13 recommendation of the President Pro Tempore of the Senate, one of
14 whom shall be a chief of police, two representing CMRS providers
15 licensed to do business in North Carolina, two representing local
16 exchange carriers licensed to do business in North Carolina, one of
17 whom shall represent a local exchange carrier with less than 200,000
18 access lines, and one representing the North Carolina chapter of the
19 National Emergency Number Association (NENA).

20 (4) The State Chief Information Officer or the Chief Information Officer's
21 designee, who shall serve as the chair.

22 (b) Term. – Each member shall serve a term of four years and may be appointed
23 to no more than two successive terms. Members shall remain in office until their
24 successors are appointed and qualified. Vacancies shall be filled in the same manner as
25 the original appointment. The Governor may remove any member for misfeasance,
26 malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

27 (c) Meetings. – The Board shall serve without compensation, but members of the
28 Board shall receive per diem, subsistence, and travel allowances at the rate established
29 in G.S. 138-5. A quorum of the Board shall consist of nine members. The Board shall
30 meet upon the call of the chair.

31 (d) Conflict of Interest. – G.S. 14-234 shall apply to members, officers, and
32 employees of the Board. Members, officers, and employees of the Board shall disclose
33 any interest, direct or indirect, they have in any firm or corporation interested in
34 contracting with the Board, and the nature of that interest shall be included in the
35 Board's minutes. A member, officer, or employee of the Board shall not participate in
36 decisions involving parties with whom they have a conflict of interest.

37 **"§ 62B-3. Powers and duties of the Board.**

38 (a) Duties. – The Board shall have the following powers and duties:

39 (1) To levy a monthly Enhanced 911 service charge on each voice
40 communications service connection in the amount provided in
41 G.S. 62B-4. The service charge is not a tax.

42 (2) To make and enter into contracts and agreements necessary or
43 incidental to the performance of its duties and powers under this
44 Article, including purchase agreements that are paid with funds from

1 the administrative fee allowed under subsection (b) of this section and
2 other moneys appropriated to or received by the Board for the
3 Enhanced 911 system.

4 (3) To adopt rules as may be necessary to effect the provisions of this act
5 but may not regulate any other aspect of the provision of Enhanced
6 911 service, such as technical standards.

7 (4) To accept gifts, grants, or other moneys, and to make grants under
8 G.S. 62B-6 for purposes of furthering the intent of this Article.

9 (5) To develop a comprehensive Enhanced 911 State plan for
10 communicating Enhanced 911 call information across networks and
11 among PSAPs. In constructing and periodically updating the plan, the
12 Board shall monitor trends and advances in Enhanced 911 voice
13 communications service technology, investigate and utilize
14 development of other resources within the State as part of the
15 Enhanced 911 State plan, including GIS mapping and Voice over
16 Internet Protocol (VoIP), and formulate strategies for the efficient and
17 effective delivery of Enhanced 911 voice communications service.

18 (6) To provide or fund advisory services and training for PSAPs in
19 accordance with policies and procedures established by the Board.

20 (7) To advocate for issues related to Enhanced 911 system functions,
21 features, and operations to improve the delivery of Enhanced 911
22 services to residents of and visitors to the State.

23 (8) To audit PSAPs to ensure that revenues received from the 911 Fund
24 are being used in accordance with the provisions of this Article.

25 (9) To undertake its duties in a manner that is competitively and
26 technologically neutral as to all voice communications service
27 providers.

28 (10) To take other necessary and proper action to implement the provisions
29 of this Article.

30 (11) To disburse the revenues remitted to the 911 Fund in the manner set
31 forth in G.S. 62B-5 and consistent with the provisions of
32 G.S. 143B-426.40G.

33 (12) To establish procedures for disbursement of these revenues and advise
34 the voice communications service providers and eligible PSAPs of the
35 procedures within 60 days after all members are appointed pursuant to
36 G.S. 62B-2.

37 (b) Administrative Fee. – The Board may deduct up to one percent (1%) of the
38 total service charges remitted by the voice communications service providers for deposit
39 in the Fund for administrative expenses.

40 "**§ 62B-4. Amount of service charge.**

41 (a) Initial Rate. – The rate of the monthly Enhanced 911 service charge shall be
42 set at seventy cents (70¢) per month per each voice communications service connection
43 capable of accessing 911 beginning October 1, 2007. The service charge shall have

1 uniform application and shall be imposed throughout the State as a charge to end user
2 customers.

3 (b) Annual Adjustment. – The Board may adjust the service charge on July 1 of
4 every even-numbered year, but the service charge shall not exceed the amount set in
5 subsection (a) of this section. The Board is to set the service charge at such a rate as to
6 ensure full recovery for voice communications service providers and for primary
7 PSAPs, over a reasonable period of time, of the costs allowed in G.S. 62B-5 and
8 associated with developing and maintaining an Enhanced 911 system.

9 (c) Collections. – Voice communications service providers of prepaid wireless
10 telephone service shall collect and remit to the Board the service charge imposed upon
11 prepaid wireless telephone subscribers under one of the following methods:

12 (1) The voice communications service provider shall collect, on a monthly
13 basis, the service charge from each active prepaid wireless telephone
14 service customer whose account balance is equal to or greater than the
15 amount of the service charge; or

16 (2) The voice communications service provider shall divide the total
17 earned prepaid wireless telephone service revenue received by the
18 voice communications service provider with respect to each active
19 prepaid wireless telephone service customer in the State within the
20 monthly 911 reporting period by fifty dollars (\$50.00) and multiply the
21 quotient by the service charge amount.

22 (d) Restriction. – No other State agency or local government may levy an
23 additional surcharge or fee relating to the provision of 911 service or Enhanced 911
24 service.

25 **"§ 62B-5. 911 Fund.**

26 (a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund
27 with the Department of the Treasurer. The Board shall deposit into the Fund all
28 revenues derived from the service charge levied on exchange access facilities, VoIP,
29 and CMRS connections in the State and collected pursuant to G.S. 62B-4. The 911
30 Revenues in the Fund may only be used as provided in this Article.

31 (b) Allocation of Revenues. – The revenues remitted to the 911 Fund shall be
32 allocated as follows:

33 (1) Fifty-three percent (53%) of the funds remitted by CMRS providers to
34 the 911 Fund shall be used to reimburse CMRS providers.

35 (2) Forty-seven percent (47%) of the funds remitted by CMRS providers
36 and all funds remitted by all other voice communication service
37 providers shall be used to make monthly distributions to primary
38 eligible PSAPs.

39 (c) CMRS Providers. – CMRS providers are eligible for reimbursement for the
40 actual costs incurred by the CMRS providers in complying with the wireless 911
41 requirements established by the FCC Order and any rules and regulations which are or
42 may be adopted by the FCC pursuant to the FCC Order, including costs and expenses
43 incurred for designing, upgrading, purchasing, leasing, programming, installing, testing,
44 or maintaining all necessary data, hardware, and software required in order to provide

1 such service as well as the recurring and nonrecurring costs of operating such service
2 must comply with all of the following:

- 3 (1) Invoices must be sworn.
- 4 (2) All costs and expenses must be commercially reasonable.
- 5 (3) Any invoice for reimbursement shall not be approved for the payment
6 of costs that are not related to compliance with the wireless Enhanced
7 911 service requirements established by the FCC Order and any rules
8 and regulations which are or may be adopted by the FCC pursuant to
9 the FCC Order.
- 10 (4) Any invoice for reimbursement shall not be approved, unless prior
11 approval for the expenditures is received from the Board, for payment
12 of costs of any CMRS provider exceeding the lesser of:
 - 13 a. One hundred percent (100%) of the eligible costs allowed under
14 this section.
 - 15 b. One hundred twenty-five percent (125%) of the service charges
16 remitted by the CMRS provider.
- 17 (5) If the total amount of invoices submitted to the Board and approved
18 for payment exceeds the amount in the 911 Fund in any month, CMRS
19 providers that have invoices approved for payment shall receive a pro
20 rata share of the 911 Fund, based on the relative amount of their
21 approved invoices available that month, and the balance of the
22 payments will be carried over to the following month or months and
23 shall include interest at a rate equal to the rate earned by the 911 Fund
24 until all of the approved payments are made.

25 (d) PSAPs. – Revenues remitted to the 911 Fund shall be used to make monthly
26 distributions to primary eligible PSAPs only as follows:

- 27 (1) Each eligible primary PSAP shall receive the same amount of funds
28 the PSAP collected in the fiscal year ending June 30, 2006, from the
29 total funds available for distribution to PSAPs that was reported to the
30 State Treasurer, Local Government Division, as being in the special
31 revenue fund known as the Emergency Telephone System Fund.
- 32 (2) The Board shall divide any additional funds remitted by voice
33 communications service providers into two separate funds based on a
34 percentage to be determined by the Board. One fund shall be divided
35 pro rata among eligible primary PSAPs based upon the population
36 served by the PSAPs, and all remaining funds shall be distributed to
37 primary eligible PSAPs in rural and other high-cost areas to provide
38 facility and service enhancements consistent with the grant funding
39 process set forth in G.S. 62B-6.
- 40 (3) Funds in the 911 Fund available for primary eligible PSAPs shall be
41 used only to pay for:
 - 42 a. The lease, purchase, or maintenance of emergency telephone
43 equipment, including necessary computer hardware, software

- 1 and database provisioning, addressing, and nonrecurring costs
2 of establishing a 911 system.
- 3 b. Reasonable expenditures required to provide in-State training of
4 911 personnel regarding the maintenance and operation of the
5 911 system. Allowable training expenses include the cost of
6 instructors, certifications, training associated with quality
7 assurance and improvement programs, including emergency
8 medical, fire, or law enforcement. Training shall be provided
9 within the State of North Carolina unless the training is
10 unavailable in the State, or the PSAP is able to document that
11 the training costs would be less by traveling out-of-state.
12 Training specific to the receipt of 911 calls shall be allowed
13 only for intake and related call taking quality assurance and
14 improvement. Instructor certification costs and course required
15 prerequisites, including physicals, psychological exams, and
16 drug testing are not allowable expenditures.
- 17 c. Rates associated with the service supplier's 911 service and
18 other service supplier recurring charges. The PSAP providing
19 911 service shall be responsible to the voice communications
20 service provider for all 911 installation, service, equipment,
21 operation, and maintenance charges owed to the voice
22 communications service provider, and any taxes due on 911
23 service provided by a voice communications service provider
24 shall be billed to the PSAP providing the service. A PSAP may
25 contract with a service supplier on terms agreed to by the PSAP
26 and the service supplier.
- 27 (4) Funds in the PSAP Fund shall not be used to pay for the lease or
28 purchase of real estate, cosmetic remodeling of emergency dispatch
29 centers, hiring or compensating dispatchers, or the purchase of mobile
30 communications vehicles, ambulances, fire engines, or other
31 emergency vehicles.
- 32 (5) To receive funds under this section, a PSAP must comply with the
33 wireless Enhanced 911 service requirements established by the FCC
34 Order and any rules and regulations that are or may be adopted by the
35 FCC pursuant to the FCC Order. A county or municipality that has one
36 or more PSAPs shall submit in writing to the Board information that
37 identifies the PSAPs in the manner required by the FCC Order.
- 38 (6) In July of each year every participating PSAP will submit to the Board
39 a copy of its governing agency's approved budget detailing the PSAP's
40 revenues and expenditures associated with the operation of its wireless
41 Enhanced 911 system. PSAPs must comply with all requests by the
42 Board for financial information related to the operation of the wireless
43 Enhanced 911 system. The PSAP budget shall identify revenues and

1 expenditures for eligible expense reimbursements as provided in this
2 Article and rules adopted by the 911 Board.

3 (e) Report. – On February 15, 2009, and every two years thereafter the 911
4 Board shall report to the Joint Legislative Commission on Governmental Operations
5 and the Revenue Laws Study Committee. The report shall contain complete information
6 regarding receipts and expenditures of all funds received by the 911 Board during the
7 period covered by the report as well as the status of the 911 systems in North Carolina
8 at the time of the report. Each succeeding report shall cover the two-year period of time
9 from the ending date of the previous report.

10 (f) Local Revenue. – The General Assembly finds that the revenue distributed
11 under this section is local revenue, not a State expenditure, for the purpose of Section
12 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not
13 reduce or withhold distributions from the 911 Fund.

14 **"§ 62B-6. The Grant Fund.**

15 (a) Grant Fund Established. – The Board shall establish a Grant Fund within the
16 911 Fund upon the identification and reallocation of funds as provided in this section for
17 the purpose of making grants to PSAPs under this Article.

18 (b) Revenue. – Any funds remitted to the 911 Fund by CMRS providers that are
19 not allocated as reimbursement to a CMRS provider pursuant to the requirements of
20 G.S. 62B-5 at the end of the fiscal year may be reallocated by the Board to a Grant Fund
21 administered under this section if all of the following conditions are met:

- 22 (1) The Board has documented that there is a critical need for additional
23 funding to certain PSAPs, particularly in rural areas, to ensure that
24 enhanced 911 service is deployed throughout the state.
- 25 (2) The reallocation is limited to funding only PSAP 911 expenditures that
26 are authorized by G.S. 62B-5(d)(3).
- 27 (3) The reallocation will not impair cost recovery by CMRS providers or
28 PSAPs.
- 29 (4) The reallocation will not impair the Board's ability to fulfill its
30 management or administrative obligations under this Article.
- 31 (5) The reallocation will not result in the insolvency of the 911 Fund.
- 32 (6) The reallocations will be made only once each calendar year within
33 three months after June 30.

34 (c) Grant Application Process. – A PSAP may apply for a grant on a form and in
35 the manner described by the Board. A grant application may be approved if the Board
36 determines all of the following:

- 37 (1) The costs estimated in the application are reasonable and have been or
38 will be incurred for the purpose of promoting a cost-effective and
39 efficient 911 or Enhanced 911 system.
- 40 (2) The expenses to be incurred by the applicant are consistent with the
41 Board's statewide Enhanced 911 Plan.
- 42 (3) There are sufficient funds available in the fiscal year in which grant
43 funds will be distributed.
- 44 (4) The costs are authorized PSAP costs under G.S. 62B-5.

1 (d) Grant Agreement. – The grant agreement between the Board and PSAP shall
2 include the purpose of the grant, the time frame for implementing the project or
3 program funded by the grant, the amount of the grant, which may vary among grantees,
4 and a provision for repaying grant funds if the grantee fails to comply with any of the
5 terms of the grant. If the grant is intended to promote the deployment of enhanced 911
6 in rural areas of the State, the grant agreement shall specify how the funds will assist
7 with this goal. The Board shall publish one or more notices each fiscal year advertising
8 the availability of the grants from the Grant Fund and detailing the application process,
9 including, the deadline for submitting applications, any required documents specifying
10 costs, either incurred or anticipated, and evidence demonstrating the need for the grant.
11 Any grant funds awarded to PSAPs under this section shall be in addition to any funds
12 reimbursed under G.S. 62B-5.

13 (e) Limitation on Grant Fund. – In the event the Board reallocates monies to the
14 Grant Fund as provided in this section in excess of three million dollars (\$3,000,000) in
15 any one year, the Board shall consider reducing the amount of the service charge in
16 G.S. 62B-4 to more accurately reflect appropriate underlying costs of providing 911
17 emergency services.

18 **"§ 62B-7. Management of funds.**

19 (a) Service Charge. – Except for prepaid wireless telephone service, each voice
20 communications service provider, as a part of its monthly billing process, shall collect
21 from its subscribers the Enhanced 911 service charge described in G.S. 62B-4. The
22 voice communications service provider may list the service charge as a separate entry
23 on each bill. If a voice communications service provider receives a partial payment for a
24 monthly bill from a subscriber, the provider shall apply the payment first against the
25 amount the subscriber owes the provider.

26 (b) Collection. – A voice communications service provider has no obligation to
27 take any legal action to enforce the collection of the service charges for which any
28 subscriber is billed. However, a collection action may be initiated by the Board, and
29 reasonable costs and attorneys' fees associated with that collection action may be
30 assessed against the subscriber. Upon the request of the 911 Board, but no more than
31 annually, the voice communications service provider shall provide to the 911 Board the
32 amount of the uncollected service charges. The Board may request, to the extent
33 permitted by federal privacy laws, the name, address, and telephone number of any
34 telephone subscriber who has disclosed to the voice communications service provider
35 their refusal to pay the 911 service charge. Each voice communications service provider
36 shall be entitled to deduct an administrative fee from the total service charges collected
37 that is equal to one percent (1%) or fifty dollars (\$50.00) per month, whichever is
38 greater.

39 (c) Remittance to the Board. – All service charges collected by the voice
40 communications service providers, less an administrative fee, must be remitted to the
41 Board to be deposited in the 911 Fund, no later than 30 days after the end of the
42 calendar month in which the service charge is collected.

43 (d) Distribution. – The fiscal officer to whom 911 distributions are made under
44 G.S. 62B-5 shall deposit the funds in a special revenue fund, as defined in

1 G.S. 159-26(b)(2). The special revenue fund shall be known as the Emergency
2 Telephone System Fund, and the fiscal officer may invest money in the Fund in the
3 same manner that other money of the local government may be invested. The fiscal
4 officer shall deposit any income earned from the invested money in the Emergency
5 Telephone System Fund. Moneys deposited into the Fund shall be used only as
6 permitted in G.S. 62B-5.

7 **"§ 62B-8. Unauthorized use of funds.**

8 The Board shall give written notice of violation to any voice communications
9 service provider or PSAP found by the Board to be using moneys from the 911 Fund for
10 purposes not authorized by this Article. Upon receipt of notice, the voice
11 communications service provider or PSAP shall cease making any unauthorized
12 expenditures. The voice communications service provider or PSAP may petition the
13 Board for a hearing on the question of whether the expenditures were unauthorized, and
14 the Board shall grant the request within a reasonable period of time. If, after the hearing,
15 the Board concludes the expenditures were in fact unauthorized, the Board may require
16 the voice communications service provider or PSAP to refund the moneys improperly
17 spent within 90 days, and the moneys shall be deposited into the 911 Fund. If a voice
18 communications service provider or PSAP does not cease making unauthorized
19 expenditures or refuses to refund improperly spent moneys, the Board may suspend
20 funding to the provider or PSAP until corrective action is taken.

21 **"§ 62B-9. Provision of wireless services.**

22 In accordance with the FCC Order, no CMRS provider shall be required to provide
23 wireless Enhanced 911 service until all of the following conditions have been met:

- 24 (1) The provider receives a request for such service from the administrator
25 of a PSAP that is capable of receiving and utilizing the data elements
26 associated with the service.
- 27 (2) Funds are available pursuant to G.S. 62B-5.
- 28 (3) The local exchange carrier is able to support the wireless Enhanced
29 911 system.

30 **"§ 62B-10. Audit.**

31 The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the
32 General Statutes to ensure that funds in the 911 Fund are being managed in accordance
33 with the provisions of this Article and must perform an audit at least every two years.
34 The State Auditor shall provide the audit to the Board when it meets to consider
35 adjusting the service charge pursuant to G.S. 62B-12. The cost of audits must be
36 reimbursed to the State Auditor by the Board.

37 **"§ 62B-11. Customer records.**

38 Each CMRS provider shall provide its 10,000 number groups to the PSAPs upon
39 request. This information shall remain the property of the disclosing CMRS provider
40 and shall be used only in providing emergency response services to 911 calls. CMRS
41 Voice communications service provider connection information obtained by PSAP
42 personnel for public safety purposes is not public information under Chapter 132 of the
43 General Statutes. No person shall disclose or use, for any purpose other than for the

1 wireless 911 calling system, information contained in the database of the telephone
2 network portion of a wireless 911 calling system established pursuant to this Article.

3 **"§ 62B-12. Proprietary information.**

4 All proprietary information submitted to the Board or the State Auditor shall be
5 retained in confidence. Proprietary information submitted pursuant to this Article shall
6 not be subject to disclosure under Chapter 132 of the General Statutes, or otherwise
7 released to any person other than to the submitting CMRS voice communications
8 service provider, the Board, and the independent, third-party auditor retained pursuant
9 to this Article without the express permission of the submitting CMRS voice
10 communications service provider. Further, proprietary information shall constitute trade
11 secrets as defined by the North Carolina Trade Secrets Protection Act, Article 24 of
12 Chapter 66 of the General Statutes. General information collected by the Board or the
13 State Auditor shall be released or published only in aggregate amounts that do not
14 identify or allow identification of numbers of subscribers or revenues attributable to an
15 individual CMRS voice communications service provider.

16 **"§ 62B-13. Limitation of liability.**

17 A CMRS provider, local exchange company, VoIP provider, service supplier, or
18 their employees, directors, officers, or agents, except in cases of wanton or willful
19 misconduct, shall not be liable for any damages in a civil action resulting from death or
20 injury to any person or from damage to property incurred by any person in connection
21 with developing, adopting, implementing, maintaining, or operating any wireless 911
22 system or wireless Enhanced 911 system. This section shall not apply to actions arising
23 out of the operation or ownership of a motor vehicle.

24 **"§ 62B-14. Misuse of 911 system; penalty.**

25 911 emergency telephone service shall be used solely for emergency
26 communications by the public. Any person who knowingly uses or attempts to use
27 wireless emergency telephone service or information for a purpose other than obtaining
28 public safety assistance, or who knowingly uses or attempts to use wireless 911
29 emergency telephone service in an effort to avoid any voice communications service
30 charges, is guilty of a Class 3 misdemeanor. If the value of the voice communications
31 service charge or service obtained in a manner prohibited by this section exceeds one
32 hundred dollars (\$100.00), the person is guilty of a Class 1 misdemeanor."

33 **SECTION 3.** Any funds remaining in the Emergency Telephone System
34 Fund or required to be remitted by a service supplier to the local fiscal officer for
35 deposit to the fund, collected pursuant to Article 1 of Chapter 62A of the General
36 Statutes prior to the effective date of this act, shall be transferred to the General Fund of
37 the governing entity to be used for any lawful purpose. Any local governing entity is
38 not relieved of any prior obligation incurred for uses authorized by G.S. 62A-8.

39 **SECTION 4.** The records, personnel, property, unexpended balances of
40 appropriations, allocations, and other funds, including the functions of budgeting and
41 purchasing, heretofore vested in the Wireless 911 Board created under Article 2 of
42 Chapter 62A of the General Statutes, repealed by Section 1 of this act, are transferred to
43 the 911 Emergency Locating Board created under Article 1 of Chapter 62B of the
44 General Statutes, as enacted by Section 2 of this act. All rules, decisions, and actions,

1 heretofore adopted, made, or taken by the Wireless 911 Board created under Article 2 of
2 Chapter 62A that have not been heretofore repealed or rescinded shall continue in effect
3 until repealed or rescinded by the 911 Emergency Locating Board created under Article
4 1 of Chapter 62B of the General Statutes, as enacted by Section 2 of this act.

5 **SECTION 5.** G.S. 62-157 reads as rewritten:

6 **"§ 62-157. Telecommunications relay service.**

7 (a) Finding. – The General Assembly finds and declares that it is in the public
8 interest to provide access to public telecommunications services for hearing impaired or
9 speech impaired persons, including those who also have vision impairment, and that a
10 statewide telecommunications relay service for telephone service should be established.

11 (a1) Definitions. – For purposes of this section:

12 (1) "CMRS" is as defined in G.S. ~~62A-21.62B-1.~~

13 (2) "CMRS connection" is as defined in G.S. ~~62A-21.62B-1.~~

14 (3) "CMRS provider" is as defined in G.S. ~~62A-21.62B-1.~~

15 (4) "Exchange access facility" means the access from a particular
16 telephone subscriber's premises to the telephone system of a local
17 exchange telephone company, and includes local exchange
18 company-provided access lines, private branch exchange trunks, and
19 centrex network access registers, all as defined by tariffs of telephone
20 companies as approved by the Commission.

21 (5) "Local service provider" means a local exchange company, competing
22 local provider, or telephone membership corporation.

23 (b) Authority to Require Surcharge. – The Commission shall require local service
24 providers to impose a monthly surcharge on all residential and business local exchange
25 access facilities to fund a statewide telecommunications relay service by which hearing
26 impaired or speech impaired persons, including those who also have vision impairment,
27 may communicate with others by telephone. This surcharge, however, may not be
28 imposed on participants in the Subscriber Line Charge Waiver Program or the Link-up
29 Carolina Program established by the Commission. This surcharge, and long distance
30 revenues collected under subsection (f) of this section, are not includable in gross
31 receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied
32 under G.S. 105-164.4.

33 (c) Specification of Surcharge. – The Department of Health and Human Services
34 shall initiate a telecommunications relay service by filing a petition with the
35 Commission requesting the service and detailing initial projected required funding. The
36 Commission shall, after giving notice and an opportunity to be heard to other interested
37 parties, set the initial monthly surcharge based upon the amount of funding necessary to
38 implement and operate the service, including a reasonable margin for a reserve. The
39 surcharge shall be identified on customer bills as a special surcharge for provision of a
40 telecommunications relay service for hearing impaired and speech impaired persons.
41 The Commission may, upon petition of any interested party, and after giving notice and
42 an opportunity to be heard to other interested parties, revise the surcharge from time to
43 time if the funding requirements change. In no event shall the surcharge exceed
44 twenty-five cents (25¢) per month for each exchange access facility.

1 (d) Funds to Be Deposited in Special Account. – The local service providers shall
2 collect the surcharge from their customers and deposit the moneys collected with the
3 State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting
4 account. After consulting with the State Treasurer, the Commission shall direct how and
5 when the local service providers shall deposit these moneys. Revenues from this fund
6 shall be available only to the Department of Health and Human Services to administer
7 the statewide telecommunications relay service program, including its establishment,
8 operation, and promotion. The Commission may allow the Department of Health and
9 Human Services to use up to four cents (4¢) per access line per month of the surcharge
10 for the purpose of providing telecommunications devices for hearing impaired or speech
11 impaired persons, including those who also have vision impairment, through a
12 distribution program. The Commission shall prepare such guidelines for the distribution
13 program as it deems appropriate and in the public interest. Both the Commission and the
14 Public Staff may audit all aspects of the telecommunications relay service program,
15 including the distribution programs, as they do with any public utility subject to the
16 provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by
17 the Commission, may be distributed only by the Department of Health and Human
18 Services.

19 (e) Administration of Service. – The Department of Health and Human Services
20 shall administer the statewide telecommunications relay service program, including its
21 establishment, operation, and promotion. The Department may contract out the
22 provision of this service for four-year periods to one or more service providers, using
23 the provisions of G.S. 143-129.

24 (f) Charge to Users. – The users of the telecommunications relay service shall be
25 charged their approved long distance and local rates for telephone services (including
26 the surcharge required by this section), but no additional charges may be imposed for
27 the use of the relay service. The local service providers shall collect revenues from the
28 users of the relay service for long distance services provided through the relay service.
29 These revenues shall be deposited in the special fund established in subsection (d) of
30 this section in a manner determined by the Commission after consulting with the State
31 Treasurer. Local service providers shall be compensated for collection, inquiry, and
32 other administrative services provided by said companies, subject to the approval of the
33 Commission.

34 (g) Reporting Requirement. – The Commission shall, after consulting with the
35 Department of Health and Human Services, develop a format and filing schedule for a
36 comprehensive financial and operational report on the telecommunications relay service
37 program. The Department of Health and Human Services shall thereafter prepare and
38 file these reports as required by the Commission with the Commission and the Public
39 Staff. The Department shall also be required to report to the Revenue Laws Study
40 Committee.

41 (h) Power to Regulate. – The Commission shall have the same power to regulate
42 the operation of the telecommunications relay service program as it has to regulate any
43 public utility subject to the provisions of this Chapter.

1 (i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing
2 process, must collect the same surcharge imposed on each exchange access facility
3 under this section for each CMRS connection. A CMRS provider may deduct a one
4 percent (1%) administrative fee from the total amount of surcharge collected. A CMRS
5 provider shall remit the surcharge collected, less the administrative fee, to the ~~Wireless~~
6 911 Emergency Locating Board in the same manner and with the same frequency as the
7 local service providers remit the surcharge to the State Treasurer. The ~~Wireless~~ 911
8 Emergency Locating Board shall remit the funds collected from the surcharge to the
9 special account created under subsection (d) of this section."

10 **SECTION 6.** G.S. 105-130.5(b)(17) reads as rewritten:

11 "(17) To the extent included in federal taxable income, 911 charges imposed
12 under G.S. 62B-4 and remitted to the 911 Fund under G.S. 62B-5,the
13 following:

- 14 a. ~~The amount of 911 charges collected under G.S. 62A 5 and~~
15 ~~remitted to a local government under G.S. 62A 6.~~
16 b. ~~The amount of wireless Enhanced 911 service charges collected~~
17 ~~under G.S. 62A 23 and remitted to the Wireless Fund under~~
18 ~~G.S. 62A 24."~~

19 **SECTION 7.** G.S. 105-164.13(54)c. reads as rewritten:

20 "c. 911 charges imposed under ~~G.S. 62A 4 or G.S. 62A 23~~
21 G.S. 62B-4 and remitted to the ~~Emergency Telephone System~~
22 911 Fund under ~~G.S. 62A 7 or the Wireless Fund under~~
23 ~~G.S. 62A 24.~~G.S. 62B-5."

24 **SECTION 8.** This act becomes effective January 1, 2008.