

CHAPTER 143B. EXECUTIVE ORGANIZATION ACT OF 1973  
ARTICLE 15. DEPARTMENT OF INFORMATION TECHNOLOGY  
PART 10. EMERGENCY TELEPHONE SERVICE

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*N.C. Gen. Stat. § 143B-1400 (2016)*

**§ 143B-1400. Definitions**

The following definitions apply in this Part.

- (1) 911 Board. -- The 911 Board established in G.S. 143B-1401.
- (2) 911 Fund. -- The North Carolina 911 Fund established in G.S. 143B-1403.
- (3) 911 State Plan. -- A document prepared, maintained, and updated by the 911 Board that provides a comprehensive plan for communicating 911 call information across networks and among PSAPs, addresses all aspects of the State's 911 system, and describes the allowable uses of revenue in the 911 Fund.
- (4) 911 system. -- An emergency communications system using any available technology that does all of the following:
  - a. Enables the user of a communications service connection to reach a PSAP by dialing the digits 911.
  - b. Provides enhanced 911 service.
- (5) 911 system provider. -- An entity that provides a 911 system to a PSAP.
- (6) 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.
- (7) Call taking. -- The act of processing a 911 call for emergency assistance by a primary PSAP, including the use of 911 system equipment, call classification, location of a caller, determination of the appropriate response level for emergency responders, and dispatching 911 call information to the appropriate responder.
- (8) Commercial Mobile Radio Service (CMRS). -- Defined in *47 C.F.R. § 20.3*.
- (9) 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.
- (10) 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.
- (11) Communications service provider. -- An entity that provides communications service to a subscriber.
- (12) CMRS connection. -- Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.
- (13) CMRS provider. -- An entity, whether facilities-based or nonfacilities-based, that is licensed by the Federal Communications Commission to provide CMRS or that resells CMRS within North Carolina.

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

(15) Exchange access facility. -- The access from a subscriber's premises to the telephone system of a service supplier. The term includes service supplier provided access lines, private branch exchange trunks, and centrex network access registers, as defined by applicable tariffs approved by the North Carolina Utilities Commission. The term does not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Service (WATS), Foreign Exchange (FX), or incoming only lines.

(16) FCC Order. -- The Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997, and any consent decrees, rules, and regulations adopted by the Federal Communications Commission pursuant to the Order.

(17) GIS mapping. -- Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including street centerlines, ortho photography, and oblique imaging.

(18) Interconnected VoIP service. -- Defined in *47 C.F.R. § 9.3*.

(19) Local exchange carrier. -- An entity that is authorized to provide telephone exchange service or exchange access in North Carolina.

(20) 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.

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

(22) Prepaid wireless telecommunications service. -- A wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(23) Primary PSAP. -- The first point of reception of a 911 call by a public safety answering point.

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

(25) Public safety answering point (PSAP). -- The public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.

(26) Retail transaction. -- The sale of prepaid wireless telecommunications service for any purpose other than resale.

(27) Service supplier. -- An entity that provides exchange telephone service to a telephone subscriber.

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

(29) 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.

(30), (31) Repealed by Session Laws 2015-261, s. 4(a), effective January 1, 2016.

(32) VoIP provider. -- An entity that provides interconnected VoIP service.

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 1; 2011-122, s. 2; 2014-66, s. 1.1; 2015-241, s. 7A.3(2); 2015-261, ss. 1(a), 4(a).

**§ 143B-1401. 911 Board**

(a) Membership. -- The 911 Board is established in the Department of Information Technology. Neither a local government unit that receives a distribution from the fund under G.S. 143B-1406 nor a telecommunication service provider may have more than one representative on the 911 Board. The 911 Board consists of 17 members as follows:

(1) Four members appointed by the Governor as follows:

- a. An individual who represents a municipality where a primary PSAP is located, appointed upon the recommendation of the North Carolina League of Municipalities.
- b. An individual who represents a county where a primary PSAP is located, appointed upon the recommendation of the North Carolina Association of County Commissioners.
- c. An individual who represents a VoIP provider.
- d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

- a. An individual who is a sheriff, appointed upon the recommendation of the North Carolina Sheriffs' Association, Inc.
- b. An individual who represents CMRS providers operating in North Carolina.
- c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).
- d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.
- e. A fire chief with experience operating or supervising a PSAP or a director/manager of a fire-based PSAP, appointed upon the recommendation of the North Carolina Firemen's Association.

(3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

- a. An individual who is a chief of police, appointed upon the recommendation of the North Carolina Association of Chiefs of Police.
- b. Two individuals who represent CMRS providers operating in North Carolina.
- c. A Rescue or Emergency Medical Services Chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Association of Rescue and Emergency Medical Services.
- d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.

(4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

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

(c) Meetings. -- Members of the 911 Board serve without compensation. Members receive per diem, subsistence, and travel allowances at the rate established in *G.S. 138-5*. A quorum of the 911 Board is nine members. The 911 Board meets upon the call of the chair.

(d) Public Servants. -- The members of the 911 Board are public servants under *G.S. 138A-3* and are subject to the provisions of Chapter 138A of the General Statutes.

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 2(a); 2013-286, s. 2; 2015-241, ss. 7A.3(2), 7A.4(f); 2015-264, s. 46.

### § 143B-1402. Powers and duties of the 911 Board

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

(1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in 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.

(2) To administer the 911 Fund and the monthly 911 service charge authorized by *G.S. 143B-1403*.

(3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Part and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.

(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.

(5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.

(6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Part and to use revenue available to the 911 Board under *G.S. 143B-1404* for administrative expenses to pay its obligations under the contracts and agreements.

(7) To use funds available to the 911 Board under *G.S. 62-47* [143B-1407] to pay its obligations incurred for statewide 911 projects.

(8) To accept gifts, grants, or other money for the 911 Fund.

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

(10) To design, create, or acquire printed or Web-based public education materials regarding the proper use of 911.

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

(12) To take other necessary and proper action to implement the provisions of this Part.

(b) Prohibition. -- In no event shall the 911 Board or any other State agency 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 services and completing call-taking processes through one or more PSAPs.

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 3; 2014-66, s. 1.2; 2015-241, s. 7A.3(2); 2015-261, ss. 1(b), (c), 2, 4(b).

### § 143B-1403. Service charge for 911 service

(a) Charge Imposed. -- A monthly 911 service charge is imposed on each active communications service connection that provides access to the 911 system through a voice communications service. The service charge for service other than prepaid wireless telecommunications service is seventy cents (70 cent(s) ) 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 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.

(b) Prepaid Wireless. -- A 911 service charge is imposed on each retail purchase of prepaid wireless telecommunications service occurring in this State of seventy cents (70 cent(s) ) for each retail transaction of prepaid wireless telecommunications service or a lower amount set as provided by subsection (d) of this section. The service charge is collected and remitted as provided in G.S. 143B-1414.

(c) Remittance to 911 Board. -- A 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 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 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 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.

(f) Restriction. -- A local government may not impose a service charge or other fee on a subscriber to support the 911 system.

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 4; 2011-122, ss. 1(a), 3; 2015-241, s. 7A.3(2); 2015-261, s. 4(c).

*N.C. Gen. Stat. § 143B-1404 (2016)*

### § 143B-1404. 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. 143B-1403 on communications service connections in the State. Revenue in the Fund may only be used as provided in this Part.

(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. 143B-1403 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. 143B-1407. 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. 143B-1405.

(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 communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 143B-1406 and grants to PSAPs pursuant to G.S. 143B-1407.

(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.

(c) Report. -- In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee. The report must contain complete information regarding receipts and expenditures of all funds received by the 911 Board during the period covered by the report, the status of the 911 system in North Carolina at the time of the report, and the results of any investigations by the Board of PSAPs that have been completed during the period covered by the report.

(d) Nature of Revenue. -- The General Assembly finds that distributions of revenue from the 911 Fund are not State expenditures for the purpose of *Section 5(3) of Article III of the North Carolina Constitution*. Therefore, the Governor may not reduce or withhold revenue in the 911 Fund.

**HISTORY:** 2007-383, s. 1(a); 2008-134, s. 1(a); 2010-158, s. 5; 2011-122, s. 4; 2011-291, s. 2.17; 2015-241, s. 7A.3(2); 2015-261, ss. 1(d), 4(d).

*N.C. Gen. Stat. § 143B-1405 (2016)*

#### **§ 143B-1405. Fund distribution to CMRS providers**

(a) Distribution. -- CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

- (1) Invoices must be sworn.
- (2) All costs and expenses must be commercially reasonable.
- (3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.
- (4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:
  - a. One hundred percent (100%) of the eligible costs allowed under this section.

b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) Payment Carryforward. -- If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) Grant Reallocation. -- If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part of the excess amount to the PSAP Grant and Statewide 911 Projects Account established under G.S. 143B-1407. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than a total of three million dollars (\$ 3,000,000) to the PSAP Grant and Statewide 911 Projects Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 143B-1404 to reflect more accurately the underlying costs of providing 911 system services.

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

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

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 6; 2015-241, s. 7A.3(2).

*N.C. Gen. Stat. § 143B-1406 (2016)*

#### **§ 143B-1406. Fund distribution to PSAPs**

(a) Monthly Distribution. -- The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it complies with the requirements of this Part, provides enhanced 911 service, and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board may reduce, suspend, or terminate distributions under this subsection if a PSAP does not comply with the requirements of this Part. The Board must comply with all of the following:

(1) Administration. -- The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that ensures distributions for eligible operating costs and anticipated increases for all funded PSAPs. The Board must establish a formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.

(2) Reports. -- The Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.

(3) Formula. -- The funding formula established by the Board must consider all of the following:

- a. The population of the area served by a PSAP.
- b. PSAP reports and budgets, disbursement histories, and historical costs.

c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.

d. The tier designation of the county in which the PSAP is located as designated in *G.S. 143B-437.08*.

e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.

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

f. Any other information the Board considers relevant.

(4) Additional distributions. -- In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (c) of this section. The Board must provide a procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

(b) Percentage Designations. -- The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in *G.S. 143B-1407*. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each fiscal year.

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

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

(1) The lease, purchase, or maintenance of:

a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.

b. Addressing.

c. Telecommunicator furniture.

d. Dispatch equipment located exclusively within a building where a PSAP or back-up PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the PSAP or back-up PSAP.

(2) The nonrecurring costs of establishing a 911 system.

(3) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, training associated with call taking, and emergency medical, fire, or law enforcement procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are

less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

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

(e) Local Fund. -- The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in *G.S. 159-26(b)(2)*, designated as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(f) Compliance. -- A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.

(2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Part and rules adopted by the 911 Board.

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

(4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

(5) By July 1, 2016, a PSAP must have a plan and means for 911 call-taking in the event 911 calls cannot be received and processed in the primary PSAP. If a PSAP has made substantial progress toward implementation of the plan and means, the 911 Board may grant the PSAP an extension until July 1, 2017, to complete implementation of the plan and means. The plan must identify the alternative capability of taking the redirected 911 calls. This subdivision does not require a PSAP to construct an alternative facility to serve as a back-up PSAP.

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

(g) Application to Cherokees. -- The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911 Board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount.

**HISTORY:** 2007-383, s. 1(a); 2008-134, ss. 1(b), (c); 2010-158, ss. 7(a)-(d); 2011-291, s. 2.18; 2014-66, s. 1.3; 2015-219, s. 1; 2015-241, s. 7A.3(2); 2015-261, ss. 1(e), 4(e).

*N.C. Gen. Stat. § 143B-1407 (2016)*

#### **§ 143B-1407. PSAP Grant and Statewide 911 Projects 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. 143B-1405(c) and G.S. 143B-1406. 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 for consolidating one or more PSAPs with a primary PSAP, the relocation costs of primary PSAPs, or capital expenditures that enhance the 911 system, including costs not authorized under G.S. 143B-1406(e) and construction costs.

(c) PSAP Grant and Statewide 911 Projects Grant Agreement. -- A 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. 143B-1406.

(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. 143B-1406(e).

(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.

**HISTORY:** 2007-383, s. 1(a); 2010-158, s. 8; 2015-241, s. 7A.3(2); 2015-261, s. 1(f).

*N.C. Gen. Stat. § 143B-1408 (2016)*

**§ 143B-1408. Recovery of unauthorized use of funds**

The 911 Board must give written notice of violation to any communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Part. Upon receipt of notice, the communications service provider or PSAP must cease making any unauthorized expenditures. The 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 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 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.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(f).

*N.C. Gen. Stat. § 143B-1409 (2016)*

#### **§ 143B-1409. Conditions for providing enhanced 911 service**

In accordance with the FCC Order, no CMRS provider is required to provide enhanced 911 service until all of the following conditions are met:

- (1) The provider receives a request for the service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service.
- (2) Funds for reimbursement of the CMRS provider's costs are available pursuant to G.S. 143B-1405.
- (3) The local exchange carrier is able to support the requirements of enhanced 911 service.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2).

*N.C. Gen. Stat. § 143B-1410 (2016)*

#### **§ 143B-1410. Audit**

The State Auditor may perform audits of the 911 Board pursuant to Part 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the provisions of this Part. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2).

*N.C. Gen. Stat. § 143B-1411 (2016)*

#### **§ 143B-1411. 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 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.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(g).

*N.C. Gen. Stat. § 143B-1412 (2016)*

**§ 143B-1412. Proprietary information**

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Part 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 communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting 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 communications service provider.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 4(h).

*N.C. Gen. Stat. § 143B-1413 (2016)*

**§ 143B-1413. Limitation of liability**

(a) Except in cases of wanton or willful misconduct, a communications service provider, and a 911 system provider or next generation 911 system provider, and 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.

**HISTORY:** 2007-383, s. 1(a); 2015-241, s. 7A.3(2); 2015-261, s. 3.

*N.C. Gen. Stat. § 143B-1414 (2016)*

**§ 143B-1414. Service charge for prepaid wireless telecommunications service; seller collects 911 service charge on each retail transaction occurring in this State; remittances to Department of Revenue and transfer to 911 Fund**

(a) Retail Collection. -- A seller of prepaid wireless telecommunications service shall collect the 911 service charge for prepaid wireless telecommunications service from the consumer on each retail transaction occurring in this State. The 911 service charge for prepaid wireless telecommunications service is in addition to the sales tax imposed on the

sale or recharge of prepaid telephone calling service under *G.S. 105-164.4(a)(4d)*. The amount of the 911 service charge for prepaid wireless telecommunications service must be separately stated on an invoice, receipt, or other reasonable notification provided to the consumer by the seller at the time of the retail transaction. For purposes of this Part, a retail transaction is occurring in this State if the sale is sourced to this State under *G.S. 105-164.4B(a)*.

(b) Administrative Allowance; Remittance to Department of Revenue. -- A seller may deduct and retain from the 911 service charges it collects from consumers and remits to the Department of Revenue an administrative allowance of five percent (5%). A seller shall remit the 911 service charge for prepaid wireless telecommunications service collected by it under subsection (a) of this section in either of the following ways:

(1) Monthly to the Department of Revenue. The service charges collected in a month are due by the 20th day of the month following the calendar month covered by the return.

(2) Semiannually to the Department of Revenue. The service charges collected in the first six months of the calendar year are due by July 20. The service charges collected in the second six months of the calendar year are due by January 20.

(c) Administration. -- Administration, auditing, requests for review, making returns, collection of tax debts, promulgation of rules and regulations by the Secretary of Revenue, additional taxes and liens, assessments, refunds, and penalty provisions of Article 9 of Chapter 105 of the General Statutes apply to the collection of the 911 service charge for prepaid wireless telecommunications service. An audit of the collection of the 911 service charge for prepaid wireless telecommunications service shall only be conducted in connection with an audit of the taxes imposed by Article 5 of Chapter 105 of the General Statutes. Underpayments shall be subject to the same interest rate as imposed for taxes under *G.S. 105-241.21*. Overpayments shall be subject to the same interest rate as imposed for taxes under *G.S. 105-241.21(c)(2)*. Excessive and erroneous collections of the service charge will be subject to *G.S. 105-164.11*. The Department of Revenue shall establish procedures for a seller of prepaid wireless telecommunications service to document that a sale is not a retail transaction, and the procedures established shall substantially coincide with the procedures for documenting a sale for resale transaction under *G.S. 105-164.28*. The Secretary of Revenue may retain the costs of collection from the remittances received under subsection (b) of this section, not to exceed five hundred thousand dollars (\$ 500,000) a year of the total 911 service charges for prepaid wireless telecommunications service remitted to the Department. Within 45 days of the end of each month in which 911 service charges for prepaid wireless telecommunications service are remitted to the Department, the Secretary of Revenue shall transfer the total 911 service charges remitted to the Department less the costs of collection to the 911 Fund established under *G.S. 143B-1404*.

(d) Liability of Consumer. -- The 911 service charge for prepaid wireless telecommunications service is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable for remitting to the Department of Revenue all 911 service charges for prepaid wireless telecommunications service that the seller collects from consumers as provided in subsection (b) of this section.

**HISTORY:** 2011-122, s. 5; 2013-414, s. 30; 2014-66, s. 2.1; 2015-241, s. 7A.3(2).

*N.C. Gen. Stat. § 143B-1415 (2016)*

### **§ 143B-1415. Limitation of liability, prepaid wireless**

In addition to the limitation of liability provided in subsection *G.S. 143B-1413*, each provider and seller of prepaid wireless telecommunications service is entitled to the following limitations of liability:

(1) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of or the failure to provide 911 service, or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 service.

(2) No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this State or any other state, or any political subdivision of this State or any other state in connection with any lawful investigation or other law enforcement activity by the law enforcement officer.

**HISTORY:** 2011-122, s. 5; 2015-241, s. 7A.3(2).

*N.C. Gen. Stat. § 143B-1416 (2016)*

**§ 143B-1416. Exclusivity of 911 service charge for prepaid wireless telecommunications service**

The 911 service charge for prepaid wireless telecommunications service imposed by this Part is the only 911 funding obligation imposed with respect to prepaid wireless telecommunications service in this State, and no tax, fee, surcharge, or other charge shall be imposed in this State, any subdivision of this State, or any intergovernmental agency for 911 funding purposes upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

**HISTORY:** 2011-122, s. 5; 2015-241, s. 7A.3(2).