GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-383
HOUSE BILL 1755

AN ACT TO MODERNIZE AND IMPROVE THE ADMINISTRATION OF THE STATE'S 911 SYSTEM THROUGH A STATEWIDE 911 BOARD, BY ENSURING THAT ALL VOICE SERVICES CONTRIBUTE TO THE 911 SYSTEM AND BY PROVIDING PARITY IN THE QUALITY OF SERVICE AND THE LEVEL OF 911 CHARGES ACROSS VOICE COMMUNICATIONS SERVICE PROVIDERS.

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

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

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

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

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

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

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 62A of the General Statutes is amended by adding a new Article to read:

"Article 3.
"Emergency Telephone Service.

"**§ 62A-40. Definitions.**

The following definitions apply in this Article.

(1) 911 Board. – The 911 Board established in G.S. 62A-41.
(2) 911 Fund. – The North Carolina 911 Fund established in G.S. 62A-43.
(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 telephone system that does all of the following:
  a. Enables the user of a voice communications service connection to reach a PSAP by dialing the digits 911.
  b. Provides enhanced 911 service.
(5) Call taking. – The act of processing a call for emergency assistance up to the point that the call is ready for dispatch, including the use of

equipment, call classification, location of a caller, and determination of the appropriate response level for emergency responders.

(6) Commercial Mobile Radio Service (CMRS). – Defined in 47 C.F.R. § 20.3.

(7) CMRS connection. – Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.

(8) 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.

(9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing 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.

(10) 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.

(11) 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.

(12) 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.

(13) Interconnected VoIP service. – Defined in 47 C.F.R. § 9.3.

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

(15) Prepaid wireless telephone service. – A right that meets all of the following requirements:

a. Authorizes the purchase of CMRS, either exclusively or in conjunction with other services.

b. Must be paid for in advance.

c. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.

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

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

(18) 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.

(19) Service supplier. – An entity that provides exchange telephone service to a telephone subscriber.

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

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

(22) 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.

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

(24) VoIP provider. – An entity that provides interconnected VoIP service.

"**§ 62A-41. 911 Board.**

(a) Membership. – The 911 Board is established in the Office of Information Technology Services. The 911 Board consists of 17 members as follows:

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

a. An individual who represents municipalities appointed upon the recommendation of the North Carolina League of Municipalities.

b. An individual who represents counties 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.

b. Two individuals who represent 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.

(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.

b. Two individuals who represent CMRS providers operating in North Carolina.

c. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).

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. 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.

"**§ 62A-42. 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 voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, 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. 62A-43.

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

(4) To establish policies and procedures to fund advisory services and training for PSAPs and to provide funds in accordance with these policies and procedures.

(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 Article and to use revenue available to the 911 Board under G.S. 62A-44 for administrative expenses to pay its obligations under the contracts and agreements.

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

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

(9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards.

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

(b) Prohibition. – In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service.

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

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active voice communications service connection that is capable of accessing the 911 system. The service charge is seventy cents (70¢) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the voice communications service provider. 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 voice communications service provider of prepaid wireless telephone service must collect and remit to the 911 Board the monthly service charge imposed upon prepaid wireless telephone subscribers in the State under one of the following methods:

(1) Collecting the service charge from each active prepaid wireless telephone service subscriber whose account balance is equal to or greater than the amount of the service charge.

(2) Dividing the provider's total earned prepaid wireless telephone service revenue received for the month from each active prepaid wireless telephone service subscriber by fifty dollars ($50.00) and multiplying the quotient by the amount of the service charge.

(c) Remittance to 911 Board. – A voice communications service provider must remit the service charges collected by it under 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 charge. If the 911 Board determines that the rate produces revenue in excess of the amount needed, the 911 Board must reduce the rate. The reduced rate must ensure full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective only on July 1 of an even-numbered year. The 911 Board must notify providers of a change in the rate at least 90 days before the change becomes effective.

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

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

"**§ 62A-44. 911 Fund.**

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 62A-43 on voice communications service connections in the State. Revenue in the Fund may only be used as provided in this Article.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses up to one percent (1%) of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

(1) Fifty-three percent (53%) of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.

(2) Forty-seven percent (47%) of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs

pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.

(c) Report. – In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review 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.

"**§ 62A-45. 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 or all of the excess amount to the PSAP Grant Account established under G.S. 62A-47. 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 three million dollars ($3,000,000) to the PSAP Grant Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 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 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.

"**§ 62A-46. 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. The amount to be distributed to each primary PSAP is the sum of the following:

(1) The PSAP's base amount. – The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007, and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.

(2) The PSAP's per capita amount. – The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911 Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service.

(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. 62A-47. 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 calendar year.

(c) 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 emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.

(2) 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, and training associated with call taking, and emergency medical, fire, or law enforcement procedures. 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.

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

(d) 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.

(e) 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 Article 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.

"**§ 62A-47. PSAP Grant Account.**

(a) Account Established. – A PSAP Grant Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost areas. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46.

(b) Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant Account. An application must be submitted in the manner prescribed by the 911 Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

(1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.

(2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.

(3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.

(4) The costs are authorized PSAP costs under G.S. 62A-46(c).

(c) Agreement. – A grant 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 Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46.

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

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken.

"**§ 62A-49. 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. 62A-45.

(3) The local exchange carrier is able to support the requirements of enhanced 911 service.

"**§ 62A-50. Audit.**

The State Auditor may perform audits of the 911 Board pursuant to Article 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 Article. 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.

"**§ 62A-51. Subscriber records.**

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

"**§ 62A-52. Proprietary information.**

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

"**§ 62A-53. Limitation of liability.**

Except in cases of wanton or willful misconduct, a voice communications service provider and its employees, directors, officers, 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.

SECTION 1.(b) Article 19 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-111.4. Misuse of 911 system.**

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a Class 3 misdemeanor. If a person knowingly accesses or attempts to access the 911 system for the purpose of avoiding a charge for voice communications service, as defined in G.S. 62A-40, and the value of the charge exceeds one hundred dollars ($100.00), the person commits a Class 1 misdemeanor."

SECTION 2.(a) Article 1 of Chapter 62A of the General Statutes is repealed.

SECTION 2.(b) Any funds remaining in the Emergency Telephone System Fund or required to be remitted by a service supplier to the local fiscal officer for deposit to the fund, collected pursuant to Article 1 of Chapter 62A of the General Statutes prior to the effective date of this act, are transferred to the General Fund of the local governing entity to be used for any lawful purpose. Any local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-8.

SECTION 3.(a) Article 2 of Chapter 62A of the General Statutes is repealed.

SECTION 3.(b) The records, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting and purchasing, of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes and repealed by subsection (a) of this section, are transferred to the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act. All rules, decisions, and actions adopted, made, or taken by the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes that have not been repealed or rescinded continue in effect until repealed or rescinded by the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act.

SECTION 3.(c) The members of the Wireless 911 Board created under Article 2 of Chapter 62A of the General Statutes, other than a member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to represent CMRS providers, serve as 11 of the initial members of the 911 Board created under Article 3 of Chapter 62A of the General Statutes, as enacted by Section 1 of this act, without reappointment by the Governor or the General Assembly. The State Chief Information Officer must designate which of the initial members who transfer to the 911 Board from the Wireless 911 Board serve four-year terms and which serve six-year terms so that the terms of half the members of the 911 Board, other than the State Chief Information Officer, will expire every two years.

The following membership positions for the 911 Board have no counterparts on the Wireless 911 Board and must be appointed in accordance with Article 3 of Chapter 62A of the General Statutes:

(1) Of the appointments by the Governor, an individual representing a VoIP provider and an individual representing the North Carolina chapter of the National Emergency Number Association (NENA).

(2) Of the appointments by the General Assembly upon the recommendation of the Speaker of the House of Representatives, 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.

(3) Of the appointments by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, an individual who represents a local exchange carrier with less than 200,000 access lines.

SECTION 4. G.S. 62-157 reads as rewritten:

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

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

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

(1) "CMRS" is as defined in G.S. ~~62A-21.~~62A-40.

(2) "CMRS connection" is as defined in G.S. ~~62A-21.~~62A-40.

(3) "CMRS provider" is as defined in G.S. ~~62A-21.~~62A-40.

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

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

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

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

(d) Funds to Be Deposited in Special Account. – The local service providers shall collect the surcharge from their customers and deposit the moneys collected with the State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting account. After consulting with the State Treasurer, the Commission shall direct how and when the local service providers shall deposit these moneys. Revenues from this fund shall be available only to the Department of Health and Human Services to administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Commission may allow the Department of Health and Human Services to use up to four cents (4¢) per access line per month of the surcharge for the purpose of providing telecommunications devices for hearing impaired or speech impaired persons, including those who also have vision impairment, through a

distribution program. The Commission shall prepare such guidelines for the distribution program as it deems appropriate and in the public interest. Both the Commission and the Public Staff may audit all aspects of the telecommunications relay service program, including the distribution programs, as they do with any public utility subject to the provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission, may be distributed only by the Department of Health and Human Services.

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

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

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

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

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

SECTION 5. G.S. 105-130.5(b)(17) reads as rewritten:

"(17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.~~the following:~~

~~a. The amount of 911 charges collected under G.S. 62A-5 and remitted to a local government under G.S. 62A-6.~~

~~b. The amount of wireless Enhanced 911 service charges collected under G.S. 62A-23 and remitted to the Wireless Fund under G.S. 62A-24.~~"

SECTION 6. G.S. 105-164.13(54)c. reads as rewritten:

"c. 911 charges imposed under ~~G.S. 62A-4 or G.S. 62A-23~~ G.S. 62A-43 and remitted to the ~~Emergency Telephone System~~ 911 Fund under ~~G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.~~that section."

SECTION 7.(a) The Joint Legislative Utility Review Committee is directed to determine the best method for collecting the service charge imposed by G.S. 62A-43 from prepaid telephone wireless subscribers. The Committee is further directed to submit a final report of its findings and recommendations to the 2007 General Assembly, Regular Session 2008.

SECTION 7.(b) Notwithstanding G.S. 62A-23, the charge imposed by that section does not apply to prepaid wireless telephone service effective August 1, 2007.

SECTION 7.(c) Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008 calendar year.

SECTION 8. Sections 1 through 6 of this act become effective January 1, 2008. Section 1(b) of this act applies to offenses committed on or after January 1, 2008. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 27th day of July, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:02 p.m. this 19th day of August, 2007