



HOUSE BILL 730: Next Generation 911

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-261

Date:
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SUMMARY: *S.L. 2015-261 authorizes the 911 Board to create a reserve fund for the implementation of next generation 911 service, and makes other conforming changes to the statutes governing the 911 Fund to allow for the implementation of next generation 911 service. The act also amends the limitation of liability provision for 911 service to provide it applies to next generation 911 technology, and amends the standard of proof required in a civil action arising out of an act or omission for an individual with assigned job duties as a 911 or public safety telecommunicator or dispatcher.*

[Section 2 of the act includes a technical change to a provision in S.L. 2015-259 clarifying the sales tax treatment of certain motorsports equipment. A summary of this provision is available in the FINANCE chapter.]

The changes in the act related to 911 service became effective January 1, 2016.

CURRENT LAW: Article 3 of Chapter 62A provides funding for the statewide 911 system. Local 911 services are operated by local governments. The public safety agencies that receive incoming 911 calls and dispatch public safety agencies in response are known as "public safety answering points" (PSAPs).

A fee to support the 911 service is imposed on each voice connection that is capable of connecting to 911 service. The fee is remitted to the 911 Board. G.S. 62A-46(a) authorizes the 911 Board to determine the monthly distributions to eligible PSAPs. The distribution amount is based on a formula adopted by the Board. The distributions may only be used for certain eligible purchases to provide 911 service by the PSAP including:

- 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.
- Reasonable expenditures for training of 911 personnel.

BILL ANALYSIS: S.L. 2015-261 creates a Next Generation 911 Reserve Fund to fund the implementation of next generation 911. The 911 Board would be required to reserve 10% of all 911 fees the Board receives to the Next Generation 911 Reserve Fund.

- The Fund could be used for statewide 911 projects, or to directly fund PSAP implementation of next generation 911 systems.
- The 911 Board is granted an exemption from the public bidding requirements to provide a single data system to serve PSAPs.
- The 911 Board must report to Gov Ops each year on how funds in the Reserve Fund are spent.

The act also authorizes the 911 Board to establish cooperative purchasing agreements for procuring goods and services, and makes conforming change throughout the statutes to remove the term "voice" where it is no longer needed. Removing the term allows the implementation of new technology in the

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911 system. However, the 911 fee will only be applied to a communications service capable of connecting to the 911 service through a voice connection.

Section 3 of the act amends the limitation of liability provision to provide it applies to next generation 911 technology and specifically applies to the release of subscriber information, the use of 911 service, and any other matters related to 911 service.

This section also amends the standard of proof required in a civil action arising out of an act or omission for an individual with assigned job duties as a 911 or public safety telecommunicator or dispatcher. Under current law a plaintiff is required to prove his or her case by a preponderance of the evidence in a civil action against a 911 or public safety telecommunicator or dispatcher. This section would provide that the standard of proof required would be by clear and convincing evidence.

"The clear and convincing evidence standard is greater than a preponderance of the evidence standard required in most civil cases, and requires evidence which should fully convince."¹ It is "evidence which, in its character and weight, establishes what the plaintiff seeks to prove in a clear and convincing fashion."²

This same change was made in S.L. 2015-71, which was enacted on June 11, 2015. However, the provision in this act limits the revision in the standard of proof to only the acts and omissions committed by specific list of individuals – a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity of the PSAP. S.L. 2015-71 applies to all individuals with assigned job duties as a 911 or public safety telecommunicator or dispatcher.

EFFECTIVE DATE: The 911 changes in this act are effective January 1, 2016.

¹ *Schenk v. HNA Holdings, Inc.*, 170 N.C. App. 555, 560, 613 S.E.2d 503, *disc. review denied*, 360 N.C. 177, 626 S.E.2d 649 (2005).

² N.C. Pattern Jury Instruction 810.96.