

No. COA 23-419

JUDICIAL DISTRICT 6A

NORTH CAROLINA COURT OF APPEALS

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CITY OF ROANOKE RAPIDS, )  
Plaintiff-Appellant, )

v. )

HALIFAX COUNTY, )  
Defendant-Appellee. )

From Halifax County

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PLAINTIFF-APPELLANT'S BRIEF

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From Halifax County

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 PLAINTIFF-APPELLANT'S BRIEF  
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## ISSUES PRESENTED

II. DID THE TRIAL COURT COMMIT REVERSIBLE ERROR IN ITS ORDER BY CONCLUDING THAT APPELLANT-CITY WAS REQUIRED TO PAY A PORTION OF APPELLEE-COUNTY'S PERSONNEL COSTS FOR THE COUNTY-OPERATED PSAP?



STATEMENT OF THE CASE

Plaintiff-Appellant the City of Roanoke Rapids commenced this action by the filing of a verified complaint and issuance of a summons on May 3, 2022 against Defendant-Appellee Halifax County. (R pp 3-4). In its Complaint, Plaintiff alleges that the Defendant, as the operator of Halifax County's sole public safety answering point (hereinafter "PSAP"), is obligated to accept emergency calls placed from within the City of Roanoke Rapids and to dispatch the same to the Plaintiff's emergency responders in the field. (R p 9). Plaintiff further alleges that Defendant is obligated to do so regardless of whether Plaintiff contributes financially to the costs that Defendant incurs in operating the PSAP. (R p 9). Plaintiff's Complaint requests that the trial court enter a declaratory judgment in Plaintiff's favor on these allegations. (R pp 8-9). Plaintiff also requests injunctive relief to enjoin the Defendant from discontinuing the taking and dispatching of emergency calls to Plaintiff's emergency responders. (R pp 9-10).

Defendant filed its responsive pleading on June 8, 2022, along with a counterclaim against Plaintiff. (R p 44). In its counterclaim, Defendant prays the trial court to 1) determine whether the other municipalities located in Halifax County should be joined to this action pursuant to N. C. Gen. Stat. § 1-260; and 2) for a declaratory judgment to be entered in favor of the Defendant that Plaintiff must bear some of the financial costs of operating Halifax County's public safety answering point, because Defendant does not have legal authority to bear those costs. (R p 14).

Prior to the trial court's hearing on this matter, the parties to this action, along with the other municipalities in Halifax County caused to be filed a document titled "Stipulations Regarding the Non-Joinder of Other Parties" to resolve the issue of joinder under N. C. Gen. Stat. § 1-260. (R pp 65-73). As a result, the trial court explicitly adopted these stipulations in its order. (R p 123).

Parties filed dualling summary judgment motions on all of their remaining claims and these were heard during the January 3, 2023 civil term of Halifax County Superior Court, the Honorable Jeffery B. Foster presiding. The trial court's judgment was filed on January 19, 2023, and constituted a final judgment on all of the parties' respective claims. (R pp 122-131). In its judgment, the trial court affirmed Plaintiff's claim that the Defendant was required to provide access to its PSAP, but also affirmed Defendant's claims that Defendant was constitutionally and statutorily barred from bearing the full costs of the PSAP. (R pp 127-128). The trial court additionally concluded as a matter of law that the Plaintiff was obligated to contribute financial support to Defendant's PSAP, thereby denying the Plaintiff's allegations to the contrary. (R pp 128-129). The trial court further specified that the amount of Plaintiff's required financial contribution should be based on a formula supplied by the trial court in its order, unless an alternative interlocal agreement was negotiated by the parties. (R p 130).

Plaintiff-Appellant filed and served written notice of appeal on February 10, 2023. (R p 133). The record on appeal was settled between the parties, and filed electronically on May 9, 2023 and docketed on May 11, 2023. (R p. 1).

### STATEMENT OF THE GROUNDS FOR APPELLATE REVIEW

The trial court's order on the parties' motions for summary judgment filed on January 19, 2023 is a final judgment resolving all of the parties' respective claims, and appeal therefore lies to the Court of Appeals pursuant to N. C. Gen. Stat. § 7A-27(b).

### STATEMENT OF THE FACTS

The facts in this matter are undisputed by the parties. The Plaintiff-Appellant is the City of Roanoke Rapids ("the City"), a municipal corporation situated wholly within Halifax County, North Carolina. (R pp 4, 44). The Defendant-Appellee is Halifax County ("the County"), a corporate body politic. (R pp 4, 44).

The County operates the sole 911 call center in Halifax County. (R pp 5, 45). This call center receives and dispatches emergency calls to all public safety agencies located within the county, including those created and maintained by the City and all of the other incorporated municipalities located within Halifax County. (R pp 5, 45). Under North Carolina law, the formal term for a 911 call center is a "public safety answering point" ("PSAP"). (R pp 5, 45).

Prior to 1998, several of the municipalities located in Halifax County, including the City, maintained their own call centers for the purpose of receiving emergency calls and dispatching their own public safety agencies to respond. (R pp 6, 48, 86-87, 91). Subsequent to January 1, 1998, the City, along with all of the other incorporated municipalities located within Halifax County, entered into an agreement with the

County whereby the County would provide and maintain the sole 911 answering point for all public safety agencies located situated within Halifax County. (R pp 6, 48, 86-87). This 911 service would provide both call-taking and dispatching services. (R p 13). Pursuant to this agreement, the City, along with the other municipalities, agreed to provide financial support to the County's operation of this PSAP. (R pp 6, 12-16, 48).

The City along with the other municipalities and the County have revised their agreement regarding the County's operation of the local PSAP several times since 1998. (R pp 6, 12-18, 48). The latest written agreement to which the City consented to be a party was a 2013 amendment to a 2004 agreement. (R pp 6, 17-18, 48). Under this amended agreement, the City agreed to reimburse a portion of the County's annual cost for maintaining the PSAP. (R pp 6, 13-15, 17-18, 48). This amount was based on a formula in which there were two main variables, *viz.* the County's annual budget for the PSAP, and City's percentage of the total annual call volume of the PSAP. (R pp 13-15, 17-18).

More precisely, this formula operated as follows: an individual municipality's call volume percentage was multiplied by the total "Central Communications Budget" (i.e., the budget for the PSAP) set by the County annually. (R pp 13-15, 17-18). While the prior 2004 agreement applied a "municipal population credit" which acted to reduce an individual municipality's share of the costs based on that municipality's population, this credit was phased out by the 2013 amendment and ceased to be applied starting during the 2016-2017 fiscal year. (R pp 17-18). Finally, it is

noteworthy that under these agreements, the City has no material input into the County's budgetary, personnel, or other management choices regarding the PSAP. (R pp 23-24). Although the 2004 agreement does create a "Central Communications Advisory Board," composed of representatives of the various local public safety agencies, this Advisory Board is functionally powerless, and the County's Board of Commissioners is not obligated to follow any of its recommendations or consider its input. (R pp 24-25).

Since the 2015-2016 fiscal year, the amount the County has asked the City to contribute increased dramatically based on the amended 2013 formula. (R pp 7, 48). For the 2015-2016 fiscal year and the five fiscal years subsequent, the amounts of the City's required payment were as follows: \$225,390.00 for fiscal year 2015-2016; \$322,550.00 for fiscal year 2016-2017; \$284,785.00 for fiscal year 2017-2018; \$318,687.00 for fiscal year 2018-2019; \$345,186.00 for fiscal year 2019-2020; \$356,394.00 for fiscal year 2020-2021. (R pp 7, 48). Moreover, irrespective of the year, the amount that the County expected the City to pay was significantly more than the amounts paid by the other municipalities in Halifax County. (R pp 7, 49).

As a result of these year-over-year increases, on the City's initiative, the City attempted to negotiate a new agreement with the County during the 2020-2021 fiscal year. (R pp 7-8, 49-50). The City and the County were ultimately unable to come to an agreement, and the City gave the County notice that the City was terminating the agreement (i.e., the 2004 agreement as amended in 2013) with the County on June 29, 2021. (R pp 7-8, 20, 49-50). By the terms of the 2004 agreement as amended in

2013, this termination became effective for the 2022-2023 fiscal year beginning on July 1, 2022. (R pp 7, 20, 49).

After the City's notice of termination, and prior to the beginning of the 2022-2023 fiscal year, the parties continued to attempt to resolve this dispute, but were unsuccessful. (R pp 8, 38-39, 50). Ultimately, the County caused a letter to be sent to the City indicating that it would "invoice and expect reimbursement" for the costs related to municipal dispatching in the absence of a new agreement. (R pp 8, 38-39, 50). On April 7, 2022 the County provided further notice to the City that it would bill the City \$406,863.00 for PSAP service for the fiscal year beginning July 1, 2022. (R pp 8, 41, 50). By the time this matter was heard by the trial court on January 4<sup>th</sup>, 2023, the County had already invoiced the City \$203,431.50 for fiscal year 2022-2023. (R pp. 8, 50, 75-76).

The County acknowledges that since 2007, the State 911 fund has imposed a service charge on consumer phone service plans, and that a portion of the revenue generated by this service charge is distributed to local PSAPs for the purposes established by the State 911 Board. (R p 47). The County has also acknowledged that it received \$361,538.00 from the 911 Fund for fiscal year 2020-2021. (R p 48).

At the heart of the controversy between the City and the County over this matter is the City's assertion that beginning in 2010, changes to State laws governing the operation of PSAPs have had the effect of requiring the County as the operator of Halifax County's sole PSAP to continue to provide PSAP service to the City's public

safety agencies irrespective of any financial contribution from the City. (R pp 5-6, 45-48).

In response, the County denies this obligation, and has maintained that it is not permitted by law to expend County funds on providing dispatching services to municipal public safety agencies. (R pp 51-56).

Based on these facts, and after hearing the arguments of the respective parties' counsel, the trial court determined that local governments have indirect authority to levy property taxes and borrow money in order to establish, operate, and/or participate in a PSAP. (R p 127). It stated further that the County must make its PSAP available to the City and provide call-taking functions. (R pp 129-130). However, the trial court stated that the personnel costs of operating a PSAP could not be paid for with State 911 funds, nor could they be imposed on the County alone due to constitutional and statutory limitations. (R p. 125, 128). Therefore, the trial court determined that these costs must be borne in part the local municipalities, including the City. (R p 129). As a result the trial court ordered that, in the absence of a local agreement between the parties, the City was obligated to contribute annually to the budget of the County's PSAP. (R p 130). The amount of this contribution would be determined as follows: the City's percentage of the PSAP's total annual call volume would be calculated and applied to the County's *actual costs* for PSAP personnel for the year, rather than its budgeted costs. (R p 130).

## ARGUMENT

### Standard of Review

An appeal of a superior court order granting a motion for summary judgment is subject to *de novo* review. *In re Will of Jones*, 362 N.C. 569, 573, 669 S.E.2d 572, 576 (2008) (quoting *Forbis v. Neal*, 361 N.C. 519, 524, 649 S.E.2d 382, 385 (2007)).

More specifically, in a declaratory judgment action such as the one before the Court in this cause, the Court treats a trial court's determination of questions of fact as conclusive on appeal if the Court finds they are supported by competent evidence. *Calhoun v. WHA Med. Clinic, PLLC*, 178 N.C. App. 585, 596-97, 632 S.E.2d 563, 571 (2006) (citations omitted), *disc. review denied*, 361 N.C. 350, 644 S.E.2d 5 (2007). However, with respect to questions of law, the Court reviews the trial court's conclusions *de novo*. *Id.*

Moreover, this case ultimately hinges on questions of statutory interpretation, and this Court has previously held that “[i]ssues of statutory construction are questions of law, reviewed *de novo* on appeal.” *McKoy v. McKoy*, 202 N.C. App. 509, 511, 689 S.E.2d 590, 592 (2010).

In the case now before the Court, the trial court's conclusion of law that the County is required to provide the City access to the County's PSAP is in fact correct. However, the trial court incorrectly concluded that the County is limited by constitutional and statutory law from bearing the full costs of its PSAP operation. Moreover, the trial court's conclusion that, as a matter of law, the County is entitled to remuneration from the other municipalities located in Halifax County for a portion



of the County's costs related to the PSAP is also unsupported by law. So too is the formula that the trial court ultimately sets forth in this matter to determine the amount of the City's required contribution.

As the trial court's decision in this matter ultimately depends on an interpretation of the statutory provisions in question, this Court should reconsider the trial court's decisions *de novo*.

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY CONCLUDING IN ITS ORDER THAT THE APPELLEE-COUNTY WAS LIMITED BY CONSTITUTIONAL AND STATUTORY LAW FROM BEARING THE FULL COSTS OF ITS PUBLIC SAFETY ANSWERING POINT.

The trial court incorrectly determined as a matter of law that the County was barred by the State Constitution and the General Statutes from bearing the full costs of the County's PSAP. (R pp 127-128, Conclusion of Law 5). While the trial court correctly cited the relevant constitutional section and appropriate sections of the General Statutes, it specifically erred in its final conclusion regarding these sections when it determined that the County's authority to levy and expend county property taxes for public safety agencies was restricted to the County's own agencies. (R p 128).

As the trial court notes in its order, section 2 of Article V of the North Carolina Constitution grants local governments the ability to levy and expend property taxes. (R p 127). This section reads in its relevant part, "The General Assembly shall not authorize any county, city or town...to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State..." N.C. Const. Art. V, §2 (5). The trial court also references N. C. Gen. Stat. § 153A-149 which enumerates the specific purposes for which the State legislature has authorized

counties to levy and expend property taxes under the above constitutional authority. (R. pp 127-128). After reviewing these specific grants, the trial court made the observation that the operation of a PSAP is not among the express authorizations enumerated in N. C. Gen. Stat. § 153A-149. (R p 128). Instead, it found correctly that the operation of a PSAP is a necessary component to providing a number of the public safety functions expressly enumerated in that statute. (R p 128).

In its order, the trial court references several of these enumerated grants of authority which are relevant to a consideration of the County’s ability to fund public safety operations. (R p 128). The specific relevant subsections of §153A-149(c) are as follows:

(5) Ambulance Service. — To provide ambulance services, rescue squads, and other emergency medical services.

(6) Animal Protection and Control. — To provide animal protection and control programs.

(11) Fire Protection. — To provide fire protection services and fire prevention programs.

(18) Law Enforcement. — To provide for the operation of the office of the sheriff of the county and for any other county law-enforcement agency not under the sheriff’s jurisdiction.

N.C. Gen. Stat. §153A-149(c) (2022).

In analyzing the language of these subsections, it is important to note that none of these authorizations are limited by their terms to those agencies operated solely by county government. Indeed, subsection 18 specifically permits levy and expenditure for “any other county law-enforcement agencies *not under the sheriff’s jurisdiction.*” The concluding language of this sentence is critical to forming a correct legal analysis of the meaning of the second occurrence of the word “county” in that subsection.

The canon of statutory construction known by the Latin term *noscitur a sociis* is instructive. As the Court stated in *Jeffries v. County of Harnett*:

“[t]he interpretative canon of *noscitur a sociis* instructs that ‘associated words explain and limit each other’ and an ambiguous or vague term ‘may be made clear and specific by considering the company in which it is found, and the meaning of the terms which are associated with it.’ ”

*Jeffries v. County of Harnett*, 259 NC App. 473, 493, 817 SE 2d 36, 50 (2018), (citing *City of Winston v. Beeson*, 135 N.C. 271, 280, 47 S.E. 457, 460 (1904)).

Viewed in light of this canon of construction, it is clear that the meaning of “county” in “county law-enforcement agencies not under the sheriff’s jurisdiction” is merely one of geographical designation. “County” in this section should not be read as “county-operated”, since any county-operated law enforcement agency would fall under the sheriff’s jurisdiction, and render this additional language redundant surplusage.

Therefore, contrary to the trial court’s interpretation in this matter, N.C. Gen. Stat. §153A-149(c)(18), along with subsections (5), (6), and (11) do not prohibit a county from levying and expending property taxes to support the enumerated public safety operations. A county may levy and spend property taxes to support these operations whether or not the relevant public safety agency is operated by that county, so long as any law-enforcement operation is located within the territorial boundaries of said county.

More to the point, the levying and spending of property tax revenues for “joint undertakings” in cooperation with other local governments is also expressly authorized by N.C. Gen. Stat. §153A-149(c)(17). This subsection states, “Joint

Undertakings. — To cooperate with any other county, city, or political subdivision in providing any of the functions, services, or activities listed in this subsection.” N.C. Gen. Stat. §153A-149(c)(17). That specific grant of authority, taken in concert with the above-cited sections, clearly indicates that counties are authorized to spend levied property taxes for the enumerated public safety purposes, even if that revenue supports other public safety agencies located within the county.

As noted above, the trial court was correct when it determined that the operation of a PSAP is a necessary component to these public safety functions. However, because the trial court applied a too-narrow interpretation of the limitations of §153A-149, it incorrectly concluded that the County could only legally fund PSAP operations related to its own public safety agencies.

## II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY CONCLUDING IN ITS ORDER THAT APPELLANT-CITY WAS REQUIRED TO PAY A PORTION OF APPELLEE-COUNTY'S PERSONNEL COSTS FOR THE COUNTY-OPERATED PSAP.

The trial court also committed reversible error when it concluded that the City was required to pay a portion of the County's personnel costs related to the operation of its PSAP. While the County, the City, and the other municipalities located within Halifax County have had written agreements related to the funding of the County's PSAP since at least 2004, subsequent amendments to the General Statutes related to PSAPs have rendered those agreements gratuitous on the part of the municipalities.

Within the State of North Carolina, 911 calls are initially received by local PSAPs before those calls are dispatched to the appropriate emergency responders of public

safety agencies. (R pp 5, 45). The County operates the sole and primary PSAP in Halifax County as defined by N.C. Gen. Stat. § 143B-1400, and as such, receives calls regarding emergencies that occur in all areas of Halifax County, including those within the corporate limits of the City and Halifax County’s other municipalities. (R pp 5, 45).

PSAPs are required to answer or “take” 911 calls placed in the areas they serve. Currently, N.C. Gen. Stat. § 143B-1400(7) defines this call taking obligation as follows:

(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*.  
N.C. Gen. Stat. §143B-1400(7) (2019) (emphasis added).

The plain meaning of this section and the term “appropriate responder” is unambiguous. Moreover, a consideration of the State’s administrative regulations relating to the operation of PSAPs helps to highlight that the State 911 Board has long understood that this label is shorthand for the actual, individual responders in the field who are employed by public safety agencies to respond to emergencies.

Under N.C. Gen. Stat. §143B-1402, the State 911 Board is empowered to develop administrative rules and regulations related to the implementation of the 911 State Plan. Pursuant to this authority, the State 911 Board has enacted subchapter 06C of title 09 of the State’s Administrative Code. This section includes the following definitions:

(14) "Emergency 911 Call Processing/Dispatching" means a process by which a 911 call answered at the PSAP is transmitted to Emergency Response Facilities (ERFs) or to Emergency Response Units (ERUs) in the field.

(16) "Emergency Response Unit (ERU)" means a first responder, such as a police vehicle, a fire truck, or an ambulance. It also includes personnel who respond to fire, medical, law enforcement, or other emergency situations for the preservation of life and safety.

09 N.C. Admin. Code 06C.0103 (2016).

The plain meaning of these sections is unmistakable — a PSAP is required to dispatch calls directly to the public safety personnel in the field who are employed to respond to public safety emergencies. Nowhere in these or any related provisions is a distinction made between individual emergency responders based on the public safety agencies to which they belong.

But this obligation to process calls, and to transmit (or “dispatch”) relevant information has not always extended to individual responders in the field. Indeed, prior to 2010, PSAPs were only required to dispatch calls to the appropriate public safety agencies. In 2007, the General Assembly enacted §62A-40 (5), which at that time read:

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.

2007 N.C. Sess. Laws 1120. (emphasis added).

As a result, under the law as it existed in 2007, PSAPs were only required to process a call *up to the point of dispatch*. In practice, this meant that absent some kind of agreement — written, tacit, or otherwise — with the relevant public safety

agency, a PSAP operator was not required to dispatch those calls directly to the individual emergency responders of those public safety agencies in the field.

This changed in 2010, when the General Assembly passed House Bill 1691. This legislation removed the language “up to the point of dispatch” from § 62A-40(5) and added the requirement that a PSAP “[dispatch] 911 call information to the appropriate responder”. 2010 N.C. Sess. Laws 585. This 2010 amendment resulted in the current language of the statute, which remains unchanged today.<sup>1</sup>

These statutory changes weigh significantly on the issue now before the Court. Prior to the 2010 amendment, public safety agencies either had to maintain their own dispatching operation for emergency calls or contract with a local PSAP for the same service. However, after the passage of House Bill 1691 in 2010, State law required a primary PSAP to dispatch calls directly to the individual responders in the field. This obviated any necessity for local public safety agencies to make arrangements to provide a “last leg” of dispatching service to their responders, because operators of PSAPs were required to do so as part of their call taking operations.

All of that said, no provision of North Carolina law has ever existed that explicitly required a municipal public safety agency located in an area covered by an existing PSAP to contract with that PSAP for call processing or dispatching services.

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<sup>1</sup> In 2015, House Bill 97, as part of a comprehensive recodification, renumbered the 2010 version of §62A-40(5) to §143B-1400(7) without any material changes. 2015 N.C. Sess. Laws 704.

Similarly, there is no provision of North Carolina law or North Carolina Administrative Code now or previously existing that requires a municipality to remunerate the PSAP for said services.

As a result, current law requires the County, as the operator of the sole and primary PSAP which receives emergency calls from all of Halifax County, to dispatch those calls directly to the appropriate emergency responders in the field. This obligation exists merely by virtue of the County's operation of a local PSAP covering these areas. Additionally, whether the municipal public safety agencies that employ those responders provide financial support to the County's operation or not has no impact on the County's statutory obligations.

In its order, the trial court notes that PSAPs receive funding from the State 911 Board, but that this funding is restricted and cannot be used to cover the costs associated with providing the personnel necessary to operate the PSAP. (R p 125). The trial court is correct in this statement. Additionally, the trial court noted in its comments at the January 4<sup>th</sup> hearing that the General Assembly creates "unfunded mandates"... "all the time", and that in those situations, the State makes no provision for the costs borne by local governments subject to said mandates. (T p 44). The trial court may also be correct in this statement. However, where the trial court errs is when it determines that the State's mandate upon PSAP operators should be extended to the third-party public safety agencies who receive the benefit of those mandated services.




This Court should not lose sight of the fact that the General Assembly has placed these obligations on the PSAP operators themselves. The State Legislature has enacted no obligation or “mandate” upon local governments who merely maintain public safety agencies to require them to support financially the PSAPs who dispatch to their responders. In its order, the trial court attempts to pass a portion of the costs of this “unfunded mandate” to third parties like the City and the operators of similarly situated public safety agencies. Yet it does so without citing any legislation or precedent that reflects a legal basis for its decision. Therefore, in its ruling, the trial court erred, and should be reversed.

### CONCLUSION

The Court of Appeals should reverse the declaratory judgment of the trial court regarding its determination that Defendant-Appellee (“the County”) is prohibited by law from fully bearing the costs related to its operation of Halifax County’s sole PSAP. Moreover, it should also reverse the declaratory judgment of the trial court regarding its determination that Plaintiff-Appellant (“the City”) is obligated to renumerate the Appellee-County for a portion of its personnel costs for operating Halifax County’s PSAP. Finally, the Court of Appeals should find that, contrary to the trial court’s ruling, the Defendant-Appellee is obligated by statute to provide 911 call taking and dispatching services to Plaintiff-Appellant’s public safety personnel, and moreover that this obligation exist irrespective of any reimbursement the Plaintiff-Appellant provides for the costs of these operations. Accordingly, the Court of Appeals should remand this case for a disposition in line with the forgoing holdings.

Respectfully submitted, this the 5<sup>th</sup> day of June, 2023.

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies, pursuant to Rule 28(j)(2) of the North Carolina Rules of Appellate Procedure, that the foregoing brief, including footnotes and citations in the text, contains no more than 8,750 words (excluding covers, indexes, tables of authorities, certificates of service, certificates of compliance, and appendixes), as reported by the word-processing software.

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this PLAINTIFF-APPELLANT'S BRIEF on the appellee in the above-entitled action by electronic mail and by depositing the same in the U. S. Mail, in a properly addressed envelope with sufficient postage thereon, in the manner prescribed by Rule 26 of the North Carolina Rules of Appellate Procedure by serving their Counsel of Record:

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No. COA 23-419

JUDICIAL DISTRICT 6A

NORTH CAROLINA COURT OF APPEALS  
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Part 10. Emergency Telephone Service.

**§ 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 the 911 Fund, including, but not limited to, transfer of 911 calls between geographically dispersed PSAPs, increased aggregation and sharing of call taking data, resources, procedures, standards, and requirements to improve emergency response and implementation of a NG911 network.
- (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.
  - c. Delivers 911 calls to the State ESInet as provided by G.S. 143B-1406(e1) or a Next Generation 911 Network.
- (5) 911 system provider. – An entity that provides an Enhanced 911 or NG911 system to a PSAP.
- (5a) Agent. – An agent is an authorized person, including an employee, contractor, or volunteer, who has one or more roles in a PSAP or for a communications service provider. An agent can also be an automaton in some circumstances.
- (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, text-to-911, short message service (SMS) or other 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.
- (13a) Emergency medical dispatch. – The management of requests for emergency medical assistance by utilizing a system of:
  - a. A tiered response or priority dispatching of emergency medical resources based on the level of medical assistance appropriate for the victim; and
  - b. Pre-arrival first aid or other medical instructions given by trained telecommunicators responsible for receiving 911 calls and dispatching emergency response services.
- (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. – Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including mapping elements such as street centerlines, ortho photography, or other imaging, and geospatial call routing to deliver 911 calls to an appropriate PSAP.
- (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.
- (19a) Next generation 911 network. – Managed Internet Protocol based networks, gateways, functional elements, and databases that augment E-911 features and functions enabling the public to transmit digital information to public safety answering points replacing Enhanced 911, that maintains P.01 for Basic 911 or Enhanced 911 services or NENA i3 Solution standard for NG911 services, and that includes Emergency Service IP Network (ESInet), GIS, cybersecurity, and other system components.

- (20) Next generation 911 system. – An Internet Protocol-enabled emergency communications system enabling the public or subscriber 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.
- (25a) Regional PSAP. – Any of the following:
  - (1) A primary PSAP operated by or on behalf of two or more counties and any number of municipalities, approved by the Board, for 911 call taking.
  - (2) A PSAP operated by any combination of a county or city and a major military installation, as defined in G.S. 143-215.115, if operated subject to an intergovernmental support agreement under 10 U.S. Code Section 2679.
- (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 or communications service to the public or a subscriber.
- (27a) State Emergency Services IP (ESInet) Network. – A NG911 network contracted by the 911 Board to one or more communications service providers for the purpose of securely receiving 911 calls, transferring 911 calls and all associated data, providing centralized network management and security monitoring, and enabling GIS call routing.
- (28) Subscriber. – A person who purchases a communications service and is able to receive it or use it periodically over time.
- (28a) Telecommunicator. – A person qualified to provide 911 call taking employed by a PSAP. The term applies to 911 call takers, dispatchers, radio operators, data terminal operators, or any combination of such call taking functions in a PSAP.
- (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. (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); 2019-200, s. 7(a); 2019-214, s. 2(a).)

**§ 153A-149. Property taxes; authorized purposes; rate limitation.**

(a) Pursuant to Article V, Sec. 2(5) of the Constitution of North Carolina, the General Assembly confers upon each county in this State the power to levy, within the limitations set out in this section, taxes on property having a situs within the county under the rules and according to the procedures prescribed in the Machinery Act (Chapter 105, Subchapter II).

(b) Each county may levy property taxes without restriction as to rate or amount for the following purposes:

- (1) Courts. – To provide adequate facilities for and the county's share of the cost of operating the General Court of Justice in the county.
- (2) Debt Service. – To pay the principal of and interest on all general obligation bonds and notes of the county.
- (3) Deficits. – To supply an unforeseen deficiency in the revenue (other than revenues of public enterprises), when revenues actually collected or received fall below revenue estimates made in good faith and in accordance with the Local Government Budget and Fiscal Control Act.
- (4) Elections. – To provide for all federal, State, district and county elections.
- (5) Jails. – To provide for the operation of a jail and other local confinement facilities.
- (6) Joint Undertakings. – To cooperate with any other county, city, or political subdivision in providing any of the functions, services, or activities listed in this subsection.
- (7) Schools. – To provide for the county's share of the cost of kindergarten, elementary, secondary, and post-secondary public education.
- (8) Social Services. – To provide for public assistance required by Chapters 108A and 111 of the General Statutes.

(c) Each county may levy property taxes for one or more of the purposes listed in this subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate limitation are:

- (1) To provide for the general administration of the county through the board of county commissioners, the office of the county manager, the office of the county budget officer, the office of the county finance officer, the office of the county assessor, the office of the county tax collector, the county purchasing agent, and the county attorney, and for all other general administrative costs not allocated to a particular board, commission, office, agency, or activity of the county.
- (2) Agricultural Extension. – To provide for the county's share of the cost of maintaining and administering programs and services offered to agriculture by or through the Agricultural Extension Service or other agencies.
- (3) Air Pollution. – To maintain and administer air pollution control programs.
- (4) Airports. – To establish and maintain airports and related aeronautical facilities.
- (5) Ambulance Service. – To provide ambulance services, rescue squads, and other emergency medical services.
- (6) Animal Protection and Control. – To provide animal protection and control programs.
- (6a) Arts Programs and Museums. – To provide for arts programs and museums as authorized in G.S. 160A-488.
- (6b) Auditoriums, coliseums, and convention and civic centers. – To provide public auditoriums, coliseums, and convention and civic centers.

- (7) Beach Erosion and Natural Disasters. – To provide for shoreline protection, beach erosion control, and flood and hurricane protection.
- (8) Cemeteries. – To provide for cemeteries.
- (9) Civil Preparedness. – To provide for civil preparedness programs.
- (10) Debts and Judgments. – To pay and discharge any valid debt of the county or any judgment lodged against it, other than debts and judgments evidenced by or based on bonds and notes.
- (10a) Defense of Employees and Officers. – To provide for the defense of, and payment of civil judgments against, employees and officers or former employees and officers, as authorized by this Chapter.
- (10b) Economic Development. – To provide for economic development as authorized by G.S. 158-7.1.
- (10c) Energy Financing. – To provide financing for renewable energy and energy efficiency in accordance with a program established under G.S. 153A-455.
- (11) Fire Protection. – To provide fire protection services and fire prevention programs.
- (12) Forest Protection. – To provide forest management and protection programs.
- (13) Health. – To provide for the county's share of maintaining and administering services offered by or through the local health department.
- (14) Historic Preservation. – To undertake historic preservation programs and projects.
- (15) Hospitals. – To establish, support and maintain public hospitals and clinics, and other related health programs and facilities, or to aid any private, nonprofit hospital, clinic, related facility, or other health program or facility.
- (15a) Housing Rehabilitation. – To provide for housing rehabilitation programs authorized by G.S. 160D-1311, including personnel costs related to the planning and administration of these programs. This subdivision applies only to counties with a population of 400,000 or more, according to the most recent decennial federal census.
- (15b) Housing. – To undertake housing programs for low- and moderate-income persons as provided in G.S. 160D-1316.
- (16) Human Relations. – To undertake human relations programs.
- (16a) Industrial Development. – To provide for industrial development as authorized by G.S. 158-7.1.
- (17) Joint Undertakings. – To cooperate with any other county, city, or political subdivision in providing any of the functions, services, or activities listed in this subsection.
- (18) Law Enforcement. – To provide for the operation of the office of the sheriff of the county and for any other county law-enforcement agency not under the sheriff's jurisdiction.
- (19) Libraries. – To establish and maintain public libraries.
- (20) Mapping. – To provide for mapping the lands of the county.
- (21) Medical Examiner. – To provide for the county medical examiner or coroner.
- (22) Mental Health. – To provide for the county's share of the cost of maintaining and administering services offered by or through the area mental health, developmental disabilities, and substance abuse authority.
- (23) Open Space. – To acquire open space land and easements in accordance with Part 1 of Article 13 of Chapter 160D of the General Statutes.
- (24) Parking. – To provide off-street lots and garages for the parking and storage of motor vehicles.

- (25) Parks and Recreation. – To establish, support and maintain public parks and programs of supervised recreation.
- (26) Planning. – To provide for a program of planning and regulation of development in accordance with Chapter 160D of the General Statutes.
- (26a) Ports and Harbors. – To participate in programs with the North Carolina Ports Authority and provide for harbor masters.
- (27) Public Transportation. – To provide public transportation by rail, motor vehicle, or another means of conveyance other than a ferry, including any facility or equipment needed to provide the public transportation. This subdivision does not authorize a county to provide public roads in the county in violation of G.S. 136-51.
- (27a) Railway Corridor Preservation. – To acquire property for railroad corridor preservation as authorized by G.S. 160A-498.
- (28) Register of Deeds. – To provide for the operation of the office of the register of deeds of the county.
- (28a) Roads. – To provide for the maintenance of county roads as authorized by G.S. 153A-301(d).
- (29) Sewage. – To provide sewage collection and treatment services as defined in G.S. 153A-274(2).
- (30) Social Services. – To provide for the public welfare through the maintenance and administration of public assistance programs not required by Chapters 108A and 111 of the General Statutes, and by establishing and maintaining a county home.
- (31) Solid Waste. – To provide solid waste collection and disposal services, and to acquire and operate landfills.
- (31a) Stormwater. – To provide structural and natural stormwater and drainage systems of all types.
- (32) Surveyor. – To provide for a county surveyor.
- (33) Veterans' Service Officer. – To provide for the county's share of the cost of services offered by or through the county veterans' service officer.
- (34) Water. – To provide water supply and distribution systems.
- (35) Watershed Improvement. – To undertake watershed improvement projects.
- (36) Water Resources. – To participate in federal water resources development projects.
- (37) Armories. – To supplement available State or federal funds to be used for the construction (including the acquisition of land), enlargement or repair of armory facilities for the North Carolina National Guard.

(d) With an approving vote of the people, any county may levy property taxes for any purpose for which the county is authorized by law to appropriate money. Any property tax levy approved by a vote of the people shall not be counted for purposes of the rate limitation imposed in subsection (c).

The county commissioners may call a referendum on approval of a property tax levy. The referendum may be held at the same time as any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 10 days after any other referendum or election to be held in the county and already validly called or scheduled by law at the time the tax referendum is called. The referendum shall be conducted by the county board of elections. The clerk to the board of commissioners shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the purpose for which it is being

held, and a statement as to the last day for registration for the referendum under the election laws then in effect.

The proposition submitted to the voters shall be substantially in one of the following forms:

- (1) Shall \_\_\_ County be authorized to levy annually a property tax at a rate not in excess of \_\_\_ cents on the one hundred dollars (\$100.00) value of property subject to taxation for the purpose of \_\_\_?
- (2) Shall \_\_\_ County be authorized to levy annually a property tax at a rate not in excess of that which will produce \$\_\_\_ for the purpose of \_\_\_?
- (3) Shall \_\_\_ County be authorized to levy annually a property tax without restriction as to rate or amount for the purpose of \_\_\_?

If a majority of those participating in the referendum approve the proposition, the board of commissioners may proceed to levy annually a property tax within the limitations (if any) described in the proposition.

The board of elections shall canvass the referendum and certify the results to the board of commissioners. The board of commissioners shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended: "Any action or proceeding challenging the regularity or validity of this tax referendum must be begun within 30 days after (date of publication)." The statement of results shall be filed in the clerk's office and inserted in the minutes of the board.

Any action or proceeding in any court challenging the regularity or validity of a tax referendum must be begun within 30 days after the publication of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed herein.

Except for supplemental school taxes and except for tax referendums on functions not included in subsection (c) of this section, any referendum held before July 1, 1973, on the levy of property taxes is not valid for the purposes of this subsection. Counties in which such referendums have been held may support programs formerly supported by voted property taxes within the general rate limitation set out in subsection (c) at any appropriate level and are not subject to the former voted rate limitation.

(e) With an approving vote of the people, any county may increase the property tax rate limitation imposed in subsection (c) and may call a referendum for that purpose. The referendum may be held at the same time as any other referendum or election, but may not be otherwise held within the period of time beginning 30 days before and ending 30 days after any other referendum or election. The referendum shall be conducted by the county board of elections.

The proposition submitted to the voters shall be substantially in the following form: "Shall the property tax rate limitation applicable to \_\_\_ County be increased from \_\_\_ on the one hundred dollars (\$100.00) value of property subject to taxation to \_\_\_ on the one hundred dollars (\$100.00) value of property subject to taxation?"

If a majority of those participating in the referendum approve the proposition, the rate limitation imposed in subsection (c) shall be increased for the county.

(f) With respect to any of the categories listed in subsections (b) and (c) of this section, the county may provide the necessary personnel, land, buildings, equipment, supplies, and financial support from property tax revenues for the program, function, or service.

(g) This section does not authorize any county to undertake any program, function, joint undertaking, or service not otherwise authorized by law. It is intended only to authorize the levy of property taxes within the limitations set out herein to finance programs, functions, or services authorized by other portions of the General Statutes or by local acts. (1973, c. 803, s. 1; c. 822, s. 2; c. 963; c. 1446, s. 25; 1975, c. 734, s. 17; 1977, c. 148, s. 5; c. 834, s. 3; 1979, c. 619, s. 4;

1981, c. 66, s. 2; c. 562, s. 11; c. 692, s. 1; 1983, c. 511, ss. 1, 2; 1985, c. 589, s. 57; 1987, c. 45, s. 2; c. 697, s. 2; 1989, c. 600, s. 5; c. 625, s. 25; c. 643, s. 1; 1989 (Reg. Sess., 1990), c. 1005, ss. 3-5; 1991 (Reg. Sess., 1992), c. 764, s. 1; c. 896, s. 1; 1993, c. 378, s. 2; 1997-502, s. 6; 1999-366, s. 3; 2002-159, s. 50(a); 2002-172, s. 2.4(a); 2003-416, s. 2; 2009-281, s. 1; 2010-167, s. 4(b); 2022-62, s. 40.)



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

Session Law 2010-158

H.B. 1691

AN ACT TO AMEND THE STATUTES GOVERNING EMERGENCY TELEPHONE SERVICE, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE USE OF 911 FUNDS, AND TO INCREASE FUNDS FOR SUPPLEMENTAL PEG CHANNEL SUPPORT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 62A-40 reads as rewritten:

**"§ 62A-40. Definitions.**

The following definitions apply in this Article.

...

- (5) Call taking. – The act of processing a 911 call for emergency assistance ~~up to the point that the call is ready for dispatch~~ by a primary PSAP, including the use of 911 system equipment, call classification, location of a caller, ~~and~~ determination of the appropriate response level for emergency ~~responders~~, and dispatching 911 call information to the appropriate responder.

...

- (9) 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.

...."

**SECTION 2.(a)** G.S. 62A-41 reads as rewritten:

"(a) Membership. – The 911 Board is established in the Office of Information Technology Services. Neither a local government unit that receives a distribution from the fund under G.S. 62A-46 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:
- An individual who represents ~~municipalities~~ a municipality where a primary PSAP is located, appointed upon the recommendation of the North Carolina League of Municipalities.
  - An individual who represents ~~counties~~ a county where a primary PSAP is located, appointed upon the recommendation of the North Carolina Association of County Commissioners.
  - An individual who represents a VoIP provider.
  - 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:
- An individual who is a sheriff.
  - ~~Two individuals~~ An individual who ~~represent~~ represents CMRS providers operating in North Carolina.
  - An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).
  - 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.
  - A fire chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Firemen's Association.



~~(ii) self service query and reporting capabilities to provide timely, relevant, and actionable information to business users delivered through a variety of interfaces, devices, or applications based on their specific roles and responsibilities. All State agency business intelligence requirements, including any planning or development efforts associated with creating BI capability, as well as any master data management efforts, shall be implemented through GDAC. The State Chief Information Officer shall ensure that State agencies use the GDAC for agency business intelligence requirements."~~

**SECTION 7A.2.(d)** G.S. 143B-1351(a), as recodified by this Part, reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the ~~Office of the State Chief Information Officer~~Department of Information Technology, as a Type II transfer, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Office of the State Chief Information Officer, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Office of the State Chief Information Officer."

**SECTION 7A.2.(e)** G.S. 143B-1353(a)(2), as recodified by this Part, reads as rewritten:

"(a) The Board shall have the following powers and duties:

...

- (2) To develop and adopt uniform standards and cost-effective information technology, after thorough evaluation of the capacity of information technology to meet the present and future needs of the State and, in consultation with the ~~Office~~Department of Information ~~Technology Services, Technology~~, to develop and adopt standards for entering, storing, and transmitting information in criminal justice databases and for achieving maximum compatibility among user technologies."

**SECTION 7A.2.(f)** G.S. 143B-1354(b), as recodified by this Part, reads as rewritten:

"(b) The staff of the Criminal Justice Information Network shall provide the Board with professional and clerical support and any additional support the Board needs to fulfill its mandate. The Board's staff shall use space provided by the ~~Office of the State Chief Information Officer~~Department of Information Technology."

#### INSTRUCTIONS TO THE REVISOR OF STATUTES

**SECTION 7A.3.** The Revisor of Statutes shall make the following recodifications in connection with creating the Department of Information Technology:

- (1) Article 69 of Chapter 143 of the General Statutes (Criminal Justice Information Network) is recodified as Part 9 of Article 14 of Chapter 143B of the General Statutes with the sections to be numbered as G.S. 143B-1350 through 143B-1354, respectively.
- (2) Article 3 of Chapter 62A of the General Statutes (Emergency Telephone Service) is recodified as Part 10 of Article 14 of Chapter 143B of the General Statutes with the sections to be numbered as G.S. 143B-1360 through G.S. 143B-1370, respectively.
- (3) Article 76 of Chapter 143 of the General Statutes (North Carolina Geographic Information Coordinating Council) is recodified as Part 11 of Article 14 of Chapter 143B of the General Statutes with the sections to be recodified as G.S. 143B-1375 through 143B-1378, respectively.

The Revisor of Statutes may conform names and titles changed by this section and may correct statutory references as required by this section throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

**CONFORMING AND TECHNICAL CHANGES RELATING TO DEPARTMENT OF INFORMATION TECHNOLOGY**

**SECTION 7A.4.(a)** G.S. 18C-114(b) reads as rewritten:

"(b) ~~Article 3D of Chapter 147~~ Article 14 of Chapter 143B of the General Statutes shall not apply to the Commission."

**SECTION 7A.4.(b)** G.S. 20-7(b2)(6) reads as rewritten:

"(6) To the ~~Office of the State Chief Information Officer~~ for the purposes of ~~G.S. 143B-426.38A-G.S. 143B-1344.~~"

**SECTION 7A.4.(c)** G.S. 20-43(a) reads as rewritten:

"(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours in accordance with G.S. 20-43.1. A signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes. A photographic image recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the ~~Office of the State Chief Information Officer~~ for the purposes of ~~G.S. 143B-426.38A-G.S. 143B-1344.~~"

**SECTION 7A.4.(d)** G.S. 58-2-69(g) reads as rewritten:

"(g) The Commissioner may contract with the NAIC or other persons for the provision of online services to applicants and licensees, for the provision of administrative services, for the provision of license processing and support services, and for the provision of regulatory data systems to the Commissioner. The NAIC or other person with whom the Commissioner contracts may charge applicants and licensees a reasonable fee for the provision of online services, the provision of administrative services, the provision of license processing and support services, and the provision of regulatory data systems to the Commissioner. The fee shall be agreed to by the Commissioner and the other contracting party and shall be stated in the contract. The fee is in addition to any applicable license application and renewal fees. Contracts for the provision of online services, contracts for the provision of administrative services, and contracts for the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to ~~Article 3D of Chapter 147~~ Article 14 of Chapter 143B of the General Statutes. However, the Commissioner shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

**SECTION 7A.4.(e)** G.S. 62-3(23)i. reads as rewritten:

"i. The term "public utility" shall not include the State, the ~~Office~~ Department of Information ~~Technology Services, Technology,~~ or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39."

**09 NCAC 06C .0103 DEFINITIONS**

In addition to the terms defined in G.S. 62A-40, the following terms have the following definition when used in this Subchapter:

- (1) "911 Line/Trunk" means a telephone line/trunk which is dedicated to providing a caller with access to the designated PSAP by dialing the digits 911.
- (2) "Addressing" means the local government's assigning of a numerical address and street name (the street name may be numerical) to all locations within a local government's geographical service area for the purpose of providing Enhanced 911 service.
- (3) "Back-up PSAP" means a facility equipped with automatic number identification, automatic location identification displays, and all other features of a primary PSAP that it serves. A back-up PSAP shall receive 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. A back-up PSAP facility may be unattended when not in use, remote from the Public Safety Answering Point, and used to house equipment necessary for the functioning of an emergency communications system.
- (4) "Circuit" means the conductor or radio channel and associated equipment used to perform a specific function in connection with a 911 call system.
- (5) "CMRS" means a commercial mobile radio service.
- (6) "CMRS Non-recurring cost (NRC)" means one-time costs incurred by CMRS service providers for initial connection to selective routers and the wireless systems service provider (third party vendor non-recurring) cost.
- (7) "Communications System" means a combination of links or networks that serve a general function such as a system made up of command, tactical, logistical, and administrative networks supporting the operations of an individual PSAP.
- (8) "Comprehensive Emergency Management Plan (CEMP)" means a disaster recovery plan that conforms to guidelines established by the PSAP and is designed to address natural, technological, and man-made disasters.
- (9) "Computer-Aided Dispatch (CAD)" means a combination of hardware and software that provides data entry, makes resource recommendations, and notifies and tracks those resources before, during, and after 911 calls, and preserves records of those calls and status changes for later analysis by a PSAP or the Board.
- (10) "Computer-Aided Dispatch (CAD) Terminal" means an electronic device that combines a keyboard and a display screen to allow the exchange of information between a telecommunicator and one or more computers in the system or network.
- (11) "Control Console" means a wall-mounted or desktop panel or cabinet containing controls to operate communications equipment.
- (12) "Designated Public Safety Answering Point (PSAP)" means a Primary PSAP determined pursuant to the FCC Order or a Board approved Back-up PSAP.
- (13) "Dispatch Circuit" means a circuit over which a signal is transmitted from the PSAP to an Emergency Response Facility (ERF) or Emergency Response Unit (ERU) to notify the Emergency Response Unit to respond to an emergency.
- (14) "Emergency 911 Call Processing/Dispatching" means a process by which a 911 call answered at the PSAP is transmitted to Emergency Response Facilities (ERFs) or to Emergency Response Units (ERUs) in the field.
- (15) "Emergency Response Facility (ERF)" means a structure or a portion of a structure that houses PSAP equipment and personnel for receiving and dispatching 911 calls.
- (16) "Emergency Response Unit (ERU)" means a first responder, such as a police vehicle, a fire truck, or an ambulance. It also includes personnel who respond to fire, medical, law enforcement, or other emergency situations for the preservation of life and safety.
- (17) "FCC Order" means the Order in FCC Docket 94-102 adopted by the Federal Communications Commission on December 1, 1997, and subsequent Orders, decisions, consent decrees, rules, and regulations including 47 C.F.R. 20.18 which are incorporated by reference in these rules. The FCC Order and regulations may be obtained free of charge from the FCC website: <http://transition.fcc.gov/pshs/services/911-services/>, <http://www.fcc.gov/encyclopedia/9-1-1-and-e9-1-1-services> and <http://www.fcc.gov/encyclopedia/rules-regulations-title-47>.

- (18) "Geographic Information Systems (GIS)" means computer programs linking features seen on maps, such as roads, town boundaries, water bodies, with related information including type of road surface, population, type of agriculture, type of vegetation, or water quality information.
- (19) "GIS Base Map" means a map comprising streets and centerlines used in a Geographic Information System.
- (20) "Logging Voice Recorder" means a device that records voice conversations and automatically logs the time and date of such conversations; normally, a multichannel device that keeps a semi-permanent record of operations.
- (21) "Notification" means the time at which a 911 call is received and acknowledged at a PSAP.
- (22) "Operations Room" means the room in the PSAP where 911 calls are received and processed and communications with emergency response personnel are conducted.
- (23) "Phase I Wireless Enhanced 911 Service" has the same meaning as provided in the FCC Order and FCC regulations. The FCC Order and regulations may be obtained free of charge from the FCC website: <http://transition.fcc.gov/pshs/services/911-services/>, <http://www.fcc.gov/encyclopedia/9-1-1-and-e9-1-1-services> and <http://www.fcc.gov/encyclopedia/rules-regulations-title-47>.
- (24) "Phase II Wireless Enhanced 911 Service" has the same meaning as provided in the FCC Order and FCC regulations, as defined in Item (16) of this Rule.
- (25) "Place of Primary Use" has the same meaning as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. 124(8), if applicable; and otherwise sourcing shall be determined pursuant to G.S. 105-164.3 or G.S. 105-164.4B.
- (26) "PSAP Nonrecurring Costs" means non-repetitive charges incurred by a Primary PSAP to pay for equipment or services that do not occur on a fixed schedule. Examples include computer equipment that has become functionally outdated, software upgrades, or repair costs that are not covered by any maintenance agreement.
- (27) "PSAP Recurring Costs" means repetitive charges incurred by a primary PSAP, such as database management, lease of access lines, lease of equipment, network access fees, and applicable maintenance costs.
- (28) "Public Safety Agency" means an organization that provides law enforcement, emergency medical, fire, rescue, communications, or related support services.
- (29) "Public Safety Answering Point (PSAP)" means the public safety agency that receives incoming 911 calls.
- (30) "Selective Routing" or "Tandem Routing" means routing a 911 call to the designated PSAP based upon the caller's location.
- (31) "Service provider" means an entity that provides voice communications service, including resellers of such service.
- (32) "Standard" shall refer to and include such standards, policies, and procedures adopted by the Board pursuant to authority found in Article 3 of Chapter 62A of the N.C. General Statutes.
- (33) "Standard Operating Procedures (SOPs)" means written organizational directives that establish or prescribe specific operational or administrative methods that are to be followed for the performance of designated operations or actions.
- (34) "Stored Emergency Power Supply System (SEPSS)" means a system consisting of a Uninterruptible Power Supply, or a motor generator, powered by a stored electrical energy source, together with a transfer switch designed to monitor preferred and alternate load power source and provide desired switching of the load, and all necessary control equipment to make the system functional.
- (35) "Sworn Invoice" means an invoice prepared by a CMRS service provider's vendor that describes the goods or services and identifies the costs that the CMRS service provider submits for cost recovery pursuant to an approved cost recovery plan, and that is accompanied by an affidavit that complies with a form provided by the Board.
- (36) "Telecommunicator" means any person engaged in or employed as a full-time or part-time 911 communications center call taker, whether called by that or another term, such as emergency communications specialist or emergency dispatcher.
- (37) "Uninterruptible Power Supply (UPS)" means a system designed to provide power, without delay or transients, during any period when the primary power source is incapable of performing.
- (38) "Voice Communication Channel" means a single path for communication by spoken word that is distinct from other parallel paths.

*History Note:* Authority G.S. 62A-42; 47 C.F.R. 20.18;  
Eff. July 1, 2016.