Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1009 (Substitute S-3 as passed by the Senate)
Senate Bill 1010 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Christopher D. Dingell (Senate Bill 1009)
Senator William Van Regenmorter (Senate Bill 1010)
Committee: Technology and Energy

Date Completed: 6-29-98

RATIONALE

According to the Federal Communications Commission (FCC), dialing 9-1-1 is the most effective and familiar way the American public has of finding help in an emergency. Typically, 9-1-1 calls are routed by local exchange carriers (LECs) to public safety answering points (PSAPs) staffed by attendants who direct the calls to police, fire, and health emergency response providers. In the basic form of 9-1-1, an attendant gathers information about the nature and location of the emergency by questioning the caller. Over the last decade, according to the FCC, most 9-1-1 systems and PSAPs have been upgraded to provide "enhanced 9-1-1" service (E911). When a call is placed in a region with E911, the telephone number of the phone used for the call typically is passed to the LEC central office. A database, usually maintained by the LEC, then is used to route the call to the most appropriate PSAP. In addition, the caller's telephone number and the location of the telephone are transmitted to the PSAP.

Currently, E911 is not available for calls made from wireless, or cellular, telephones. In this case, the supplier provides basic 9-1-1 service. Some callers, however, might be disoriented, disabled, unable to speak, or unfamiliar with their surroundings. As a result, determining a wireless caller's location may be difficult and time-consuming. In addition, a 9-1-1 call might be blocked if the caller is not a subscriber of the wireless provider with coverage in the area, or a call might be received at more then one cell site if the caller is moving between wireless systems.

This situation raised concerns among public safety organizations and within the wireless industry and, in 1994, the Federal Communications Commission formally began to study the matter. On June 12, 1996, the FCC adopted an order (Docket No. 94-102) requiring carriers to provide E911 to all customers. This is to be accomplished in two phases. In Phase I, the FCC order required wireless telephone service providers, by April 1, 1998, to be prepared to relay a caller's "automatic number identification" and the location of the cell site to the designated PSAP, and enable the attendant to call back if the 9-1-1 call is disconnected. Under Phase II, by October 2001, carriers must be able to identify the latitude and longitude of a wireless call within a radius of 125 meters in 67% of all cases. The FCC's requirements are subject to two conditions: A covered carrier must have received a request for the enhanced 9-1-1 services from the administrator of a PSAP; and a mechanism for the recovery of related costs must be in place.

In Michigan, the Emergency Telephone Service Enabling Act was enacted in 1986 to facilitate the statewide development of the 9-1-1 system. The Act set up a process for county boards of commissioners to establish local 9-1-1 systems and for "service suppliers" (telephone companies, or carriers) to pass on to their subscribers part of the suppliers' technical charges. Subsequent amendments also allow service suppliers to levy emergency telephone operational charges. According to the May 1997 report of the Emergency Telephone Service Committee (in the Department of State Police), at that time 70 of Michigan's 83 counties had 9-1-1 service and nine additional counties were planning to implement it. All of the counties with 9-1-1 service have E911 capability. In order to satisfy the first condition of the FCC's wireless emergency service order, the Emergency Telephone Service Committee wrote a

letter on behalf of all PSAPs to carriers indicating this State's interest in the enhanced services. To satisfy the second condition, and bring the Act into conformity with the FCC order, it has been suggested that statutory revisions be made. Also, it has been pointed out that new facilities and equipment may be necessary to comply with the FCC order, and local units might have to incur debt to make these improvements. It has been suggested that revenue from emergency telephone operational charges could be used to repay the local units' obligations.

CONTENT

The bills would amend the Emergency Telephone Service Enabling Act to do all of the following:

- **-- Authorize various types of entities that govern local 9-1-1 districts to pledge revenues for the repayment of qualified obligations.**
- **-- Prohibit a public service agency from withdrawing its jurisdiction from a 9-1-1 service district until outstanding qualified obligations were paid.**
- **-- Require a supplier of telephone services, other than a commercial mobile radio service (CMRS) supplier, to provide to a 9-1-1 database service provider accurate information pertaining to service users, and to provide the information within one business day.**
- **-- Require a CMRS supplier to provide accurate database information for location and number identification, in compliance with the FCC wireless emergency service order.**
- **-- Revise certain user fees for 9-1-1 services.**
- **-- Require the Emergency Telephone Service Committee to provide technical assistance in formulating and implementing a 9-1-1 service plan.**
- **-- Require a CMRS supplier, county, public agency, or public service agency that had a dispute with another of those entities, to request assistance from the Committee.**
- **-- Provide that it would be a misdemeanor knowingly to use or attempt to use an emergency telephone service for a nonemergency purpose.**

The bills are tie-barred to each other and to House Bills 5289 and 5653 (described below).

Senate Bill 1010 (S-3) would take effect 120 days after its enactment, and could not be construed to affect any cause of action pending in any court of this State before the bill's effective date.

Senate Bill 1009 (S-3)

Qualified Obligations

Under the bill, an emergency telephone district board, a 9-1-1 service district, or a county on behalf of a 9-1-1 service area created by the county, could enter into an agreement with a public agency to do either of the following:

- -- Grant a specific pledge or assignment of a lien on, or a security interest in, any money received by a 9-1-1 service district for the benefit of "qualified obligations".
- -- Provide for payment directly to the public entity issuing qualified obligations of a portion of the emergency telephone operational charge sufficient to pay, when due, principal of and interest on qualified obligations.

A pledge, assignment, lien, or security interest for the benefit of qualified obligations would be valid and binding from the time they were issued, without a physical delivery or further act. A pledge, assignment, lien, or security interest would be valid and binding and have priority over any other claim against the emergency telephone district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(Senate Bill 1010 (S-3) would define "obligations" as bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a Michigan law. "Qualified obligations" would mean obligations whose proceeds benefited the 9-1-1 district and for which all of the following conditions were met:

- -- The proceeds were used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuance. The proceeds could not be used for operational expenses.
- -- The weighted average maturity of the obligations did not exceed the useful life of the capital assets.
- -- The obligations could not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

Qualified obligations also would include obligations issued to refund obligations that met the conditions described above. The net present value of the principal and interest to be paid on the refunding obligations would have to be less than the net present value of the principal and interest to be paid on the obligations being refunded.)

User Fees

The Act specifies that the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges may not exceed 2% of the highest monthly flat rate charged by a service supplier for a one-party access line. Under the bill, that fee could not exceed 2% of the lesser of $20 or the highest monthly rate charged by the service supplier for basic local exchange service.

For a 9-1-1 service district created or enhanced after June 27, 1991, the technical charge for recurring costs and charges may not exceed 4% of the highest monthly flat rate charged by the service supplier for a one-party access line. Under the bill, that fee could not exceed 4% of the lesser of $20 or the highest monthly rate charged by the service supplier for basic local exchange service.

Currently, the amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges may not exceed 5% of the highest monthly flat rate charged by the service supplier for a one-party access line. Under the bill, that fee could not exceed 5% of the lesser of $20 or the highest monthly rate charged by the service supplier for basic local exchange service.

Currently, with the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that may not exceed 4% of the highest monthly flat rate charged by a service supplier for a one-party access line. Under the bill, that fee could not exceed 4% of the lesser of $20 or the highest monthly rate charged by the service supplier for basic local exchange service. The Act provides that the percentage to be set for the operational charge must be established by the county board of commissioners. The bill would add that a change to that percentage could be made only by the county board of commissioners.

Under the Act, a county may, with the approval of the county's voters, assess up to 16% of the highest monthly flat rate charged by a service supplier for a one-party access line, to cover emergency telephone operational costs. Under the bill, that fee could not exceed 16% of the lesser of $20 or the highest monthly rate charged by the service supplier for basic local exchange service.

The bill also specifies that the total emergency telephone operational charge could not exceed 20% of the lesser of $20 or the highest monthly flat rate charged for basic service by a service supplier for a one-party access line.

The bill provides that, notwithstanding any other provision of the Act, the emergency telephone technical charge and the emergency telephone operational charge could not be levied or collected after December 31, 2006. If all or part of the operational charge, however, had been pledged as security for the payment of qualified obligations, the operational charge could be levied and collected only to the extent required to pay the obligations or satisfy the pledge.

Jurisdictional Withdrawal

Under the bill, a public service agency could not withdraw any part of its jurisdiction from a 9-1-1 service district until all outstanding qualified obligations secured by emergency telephone operational charges incurred after the agency was added to the 9-1-1 service area and agreed to by the withdrawing agency and the remainder of the 9-1-1 service district, were paid or other provisions were made to pay the obligations.

Senate Bill 1010 (S-3)

Supplier Requirements

A service supplier, other than a commercial mobile radio service supplier, would have to provide to a 9-1-1 database service provider accurate database information, including the name, service location, and telephone number of each user. The information would have to be provided in a format established and distributed by that database service provider. The information would have to be provided within one business day after the initiation of service or the processing of a service order change or within one business day after the receipt of database information from a service supplier or service district.

The bill would require a CMRS supplier to provide to a 9-1-1 database service provider accurate database information for automatic location identification (ALI) and automatic number

identification (ANI), in compliance with the FCC's wireless emergency service order.

A service district would have to notify the service supplier or the database provider within one business day of any address coming to the service district's attention that did not match the master street address guide.

"Service supplier" currently means a provider of telephone service to a service user in Michigan. The bill would add a CMRS provider to this definition. "Database service provider" would mean a service supplier that maintained and supplied or contracted to maintain and supply an automatic location identification database or a master street address guide. ("Automatic location identification" currently means a 9-1-1 service feature that automatically provides to the 9-1-1 PSAP the name and/or location associated with the calling party's telephone number. "Automatic number identification" means a 9-1-1 service feature that automatically provides to the 9-1-1 PSAP the calling party's billing telephone number.)

"Commercial mobile radio service" would mean a commercial mobile radio service regulated under Section 3 of Title I and Section 332 of Title III of the Federal Communications Act (47 USC 153 & 332) and the rules of the FCC, or provided pursuant to the wireless emergency service order of the FCC (adopted June 12, 1996, and effective October 1, 1996). The term would include all of the following:

-- A wireless two-way communication device, including a radio telephone used in cellular telephone service or personal communication service.
-- A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.
-- A network radio access line.

"Master street address guide" would mean a perpetual database containing information continuously provided by a service district that defined the geographic area of the service district and included an alphabetical list of street names, the range of address numbers on each street, the name of each community in the district, the emergency service number of each service user, and the primary PSAP identification codes. "Emergency service number" would mean the number assigned by a county to each exchange access facility that identified which emergency response service would be responsible for responding to the address of that exchange access facility's premises. (The Act defines "exchange access facility" as the access from a particular service user's premises to the telephone system.)

Technical Assistance and Dispute Resolution

Upon the request of a CMRS supplier, county, public agency, or public service agency, the Emergency Telephone Service Committee, to the extent possible, would have to provide technical assistance in formulating and implementing a 9-1-1 service plan. The Committee also would have to provide assistance in resolving a dispute between or among a CMRS supplier, county, public agency, or public service agency regarding their respective rights and duties under the Act.

A CMRS supplier, county, public agency, or public service agency, or a combination of those entities, that had a dispute with another of those entities, arising from the formulation or implementation, or both, of a 9-1-1 service plan, would have to request assistance from the Emergency Telephone Service Committee in resolving the dispute.

Criminal Offense

The bill would prohibit the use of an emergency telephone service or an emergency CMRS authorized by the Act for any reason other than to call for an emergency response service from a primary public safety answering point. A person who knowingly used or attempted to use an emergency response service for an unauthorized purpose would be guilty of a misdemeanor, punishable by up to 93 days' imprisonment, a maximum fine of $1,000, or both. A second or subsequent violation would be a felony, punishable by up to two years' imprisonment, a maximum fine of $2,000, or both.

These provisions would not apply to a person who called a PSAP to report a crime or seek assistance that was not an emergency unless the call were repeated after the person was told to call a different number.

Tie-Barred Bills

House Bill 5289, which was enacted as Public Act 122 of 1998, amended the Emergency Telephone Service Enabling Act to require that a fire fighter be included on a county's emergency telephone district board; and to add to the Emergency Telephone Service Committee the president of the Michigan State Firefighters Union and the president

of the Michigan Communications Directors Association, or their designees, as well as one representative of a commercial radio service, to be appointed by the Governor.

House Bill 5653, as introduced, would amend the Act to create the "State CMRS Emergency Telephone Fund"; require CMRS suppliers to include a service charge of 65 cents per month for each CMRS connection with a billing address in this State; require the service charge (except 1% retained by the supplier) to be deposited in the Fund; and allocate money in the Fund as follows: 20% to counties with a final 9-1-1 plan in place, 25% to counties with a final 9-1-1 plan in place on a per capita basis, 5% to PSAPs for training personnel assigned to 9-1-1 centers, and 50% to CMRS suppliers to provide and install equipment that implemented the wireless emergency service order.

MCL 484.1401 et al. (S.B. 1009)
484.1102 et al. (S.B. 1010)

BACKGROUND

Emergency Telephone Service Enabling Act

Under the Act, county boards of commissioners singly or jointly may establish an emergency telephone district within all or part of a county, and cause 9-1-1 service to be implemented within the district. To do so, a county must adopt tentative and final 9-1-1 service plans by resolution and hold public hearings on them. Unless a city, village, or township covered by a tentative plan files an exclusion within the county, the local unit is included in the district.

After adopting a final plan, the county must apply to the service suppliers designated to provide the 9-1-1 service within the district, and the suppliers must implement the service. The public safety agencies (divisions of a city, village, township, county, or the State that provide fire fighting, law enforcement, ambulance, medical, or other emergency services) that are designated in the plan as public safety answering points must begin to function in that capacity.

A service supplier must provide billing and collection service for emergency telephone technical charges and operational charges from all service users of the supplier within the geographic boundaries of the district. The supplier must pay the amount collected for the operational charge to the county. The county then must distribute the funds to the primary PSAP as provided in the final 9-1-1 service plan, or (if the plan does not provide for distribution) according to an agreement between the county and the local units, or (if there is neither a plan provision nor an agreement) according to the distribution of access lines within the PSAP.

The Act is scheduled to be repealed on December 31, 2002.

FCC Order

The FCC's wireless emergency service order resulted from concerns about the inability of wireless customers to benefit from the advanced capabilities of enhanced 9-1-1 systems that are available to most "wireline" customers. According to the order, in 1994 almost 18 million wireless calls were made to 9-1-1 and other public service numbers. At the time the order was adopted, the total number of cellular subscribers in the United States exceeded 33 million, and 9.6 million new subscribers had been added in 1995 alone. In addition to cellular phones, wireless communications include broadband "personal communications service" (PCS) phones.

The FCC order further stated that, with the growing popularity of mobile communications, wireless customers have recognized that their phone provides them with a valuable communication link in emergencies. Reportedly, 62% of cellular users cited safety and security as their main reason for purchasing a mobile phone.

The FCC stated that, in adopting the order, "...we are promulgating requirements and establishing a framework to improve wireless 911 services. We believe that these actions will result in the deployment of technologies that will help speed the delivery of assistance to people in need of help in emergency situations."

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Wireless emergency communication is important because it can save lives. Since safety is one of the most cited reasons for buying cellular and PCS phones, these devices should allow the type of emergency response that customers have come to expect. Reportedly, between 15% and 20% of all

9-1-1 calls come from wireless phones. Further, according to an article in *9-1-1 Magazine*, 25% of all 9-1-1 callers do not know where they are. Since a wireless caller's location is not automatically available to the PSAP answering the call, valuable time may be lost while the attendant attempts to determine where the person is calling from. Meanwhile, an emergency crew might be dispatched to the wrong location or forced to waste time trying to locate the caller.

In response to this situation, and the escalation in wireless phone use, the FCC issued the wireless emergency service order, establishing a timetable for wireless carriers to provide access to enhanced 9-1-1 service. Michigan also should respond by enacting the legislation needed to implement the FCC's requirements. Senate Bills 1009 (S-3) and 1010 (S-3), together with House Bills 5289 and 5653, would make amendments necessary to comply with the FCC order. In particular, Senate Bill 1009 (S-3) anticipates situations in which a local unit of government borrows money under the provisions of a bonding statute and uses the funds to make capital improvements for the 9-1-1 district to which the local unit belongs. Under the bill, the governing board of the district would enter into an agreement with the local unit, pledging its revenues from emergency telephone operational charges on the district's telephone customers' bills to repay the bond. This would enable local units to upgrade their 9-1-1 service equipment and install the technology needed to provide enhanced 9-1-1 to wireless callers.

Supporting Argument

Senate Bill 1010 (S-3) would protect the integrity of 9-1-1 databases by requiring carriers to supply accurate information about users to database service providers, and to provide the information within one business day after service was initiated or a service order change was processed, or after database information was received from a service supplier or service district. This would address the type of situation that occurred in Southfield. Reportedly, after Ameritech repeatedly failed to provide updated information to 9-1-1 service providers in a timely manner, the City of Southfield filed a complaint against Ameritech. The Public Service Commission ordered Ameritech to provide updated database information within one business day and to pay a fine of $1,000 for each day of delay. According to the PSC, the order is still in effect and Ameritech had paid a total of $183,000 through May 1998. By requiring the rapid provision of accurate information, the bill would ensure that 9-1-1 callers were properly identified, located, and assisted.

In addition, the bill would add a number of necessary definitions to the Act, and would provide for the resolution of disputes by the Emergency Telephone Service Committee.

Supporting Argument

Currently, the amount of charges that may be collected for 9-1-1 service may not exceed a specified percentage of the highest monthly flat rate charged by a service supplier for a one-party access line. Under Senate Bill 1009 (S-3), the charges could not exceed the same percentage of $20 or the highest monthly rate charged by the supplier for basic local exchange service, whichever was less. For example, the technical charge for nonrecurring costs and charges could not exceed the lesser of $1 (5% of $20) or 5% of the highest rate charged for basic local exchange service; if the monthly charge for basic service were $12, the charge for that item could not exceed 60 cents. Although the current 9-1-1 charges do not approach the proposed maximum, according to the Emergency Telephone Service Committee, these amendments would establish a monetary cap on the amount of monthly 9-1-1 charges that could be collected. The bill also would make it clear that the specified percentage would apply to a supplier's basic monthly rate, as opposed to the monthly rate for a phone with special lines or features.

Supporting Argument

Senate Bill 1010 (S-3) would prescribe penalties for the use of the 9-1-1 system for nonemergency purposes. This provision could discourage people from purposely misusing 9-1-1 service, and would address situations in which some public safety personnel allegedly use the 9-1-1 system in order to avoid paying legitimate wireless telephone fees, or to avoid long distance toll charges. According to the May 1997 report of the Emergency Telephone Service Committee, many public safety agencies have equipped personnel with commercial wireless telephones. Normally, the use of these devices involves a fee based upon the amount of time a phone is used, but wireless carriers route emergency calls without charge. As a result, some public safety personnel evidently dial 9-1-1 in order to reach a dispatch center for nonemergency communications. In some cases, the caller then expects the dispatch center to transfer the call to a second location. In addition, some public safety officials reportedly will dial

9-1-1 on a wireline telephone in order to avoid incurring long distance charges. These practices both deprive service providers of their rightful fees and tie up available emergency services communication lines, which can endanger lives by delaying the response to a legitimate emergency.

Opposing Argument

There is some concern about whether the PSC has jurisdiction over wireless carriers, which are regulated by the FCC. The Michigan Telecommunications Act specifies that, except as otherwise provided by law or preempted by Federal law, the PSC does not have authority over cellular or mobile services (MCL 484.2401).

Response: The Michigan Telecommunications Act also states, "A provider of unregulated telecommunication services shall not at any time refuse, charge, delay, or impair the speed of the connecting of a person to a telecommunications emergency service" (MCL 484.2403).

Legislative Analyst: S. Lowe

FISCAL IMPACT

Senate Bill 1009 (S-3)

The bill would make it easier for local governments to borrow funds to make capital improvements for their 9-1-1 service district.

Senate Bill 1010 (S-3)

The bill would require local 9-1-1 authorities to take on additional duties and responsibilities. These costs would be paid for by revenue generated under a House bill to which this bill is tie-barred. The bill also would provide for a fine for unauthorized use of a 9-1-1 system. According to the Constitution, all penal fines must be used for support of public libraries.

Fiscal Analyst: B. Baker

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