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WIRELESS EMERGENCY PHONE SERVICE

**House Bill 4658 as enrolled
Public Act 78 of 1999
Sponsor: Rep. Judith Scranton**

**House Bill 4659 as enrolled
Public Act 79 of 1999
Sponsor: Rep. Mary Ann Middaugh**

**Second Analysis (7-14-99)
House Committee: Energy and Technology
Senate Committee: Technology and Energy**

THE APPARENT PROBLEM:

According to the Federal Communications Commission (FCC), dialing 9-1-1 is the most effective and familiar way the American public has to find 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) for landline (as opposed to wireless) 9-1-1 calls. When a landline call is placed in a region with E911, the caller's telephone number and street address are typically 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 telephone number and the location of the telephone are transmitted to the PSAP.

In Michigan, the Emergency Telephone Service Enabling Act was enacted in 1986, in order to facilitate the statewide development of a 9-1-1 emergency telephone system and to provide funding for such a system. The act allows for the establishment of emergency telephone districts which are accessible by dialing 9-1-1. By dialing 9-1-1 callers reach a public safety answering point (PSAP), operated 24 hours a day, which is equipped to answer emergency calls and dispatch emergency services, or transfer or relay the call to another public safety agency. The act also set up a process for the telephone companies to pass on part of the recurring and nonrecurring costs of the system to subscribers.

(Nonrecurring costs are the suppliers' start up costs needed to make the 9-1-1 service operational. Recurring costs include maintenance, service, and equipment.) Subsequent amendments also allow service suppliers to levy emergency telephone operational charges. According to the Department of State Police, 74 of Michigan's 83 counties have 9-1-1 service and six additional counties are in the process of implementing it. All of the counties with 9-1-1 service have E911 capability.

However, E911 is not currently available for calls made from wireless, or cellular, telephones. In such cases, 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 than 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" (ANI) 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 percent 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 order to satisfy the first condition of the FCC's wireless emergency service order, the Emergency Telephone Service Committee (in the Department of State Police) 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. Legislation has been suggested to provide E911 capability for wireless phones and to finance the new facilities and equipment that might be needed for such improvements through a user fee.

The Emergency Telephone Service Enabling Act also provided for the creation of an emergency telephone service committee within the Department of State Police to develop statewide standards and model system considerations for 9-1-1 systems. The committee included, among others, the directors of the Departments of State Police and Community Health, members of the general public, and representatives from the Michigan Public Service Commission, Michigan Sheriffs' Association, Michigan Association of Chiefs of Police, Michigan Fire Chiefs Association, Michigan Association of Counties, National Emergency Number Association, Michigan Fraternal Order of Police, Michigan State Troopers Association, and other appropriate associations. The committee was responsible for promoting the successful development, implementation, and operation of 9-1-1 systems across the state, and required to assess, report, and make recommendations to the legislature, the Department of Management and Budget, and the Public Service Commission on the progress in developing, implementing, and operating the 9-1-1 system. Unfortunately, the sunset provision for the committee expired on December 31 of 1998, even though the rest of the act remains in effect. Legislation has been proposed to re-establish the emergency telephone service committee.

THE CONTENT OF THE BILLS:

House Bill 4658 and House Bill 4659, to which it is tie-barred, are part of a package of bills dealing with emergency telephone service. House Bill 4658 would

amend the Emergency Telephone Service Enabling Act to provide for wireless emergency telephone service and House Bill 4659 would re-establish the Emergency Telephone Service Committee. The bills are also tie-barred to two Senate bills, Senate Bill 492 and Senate Bill 493, which would also amend the Emergency Telephone Service Enabling Act (for more information regarding Senate Bills 492 and 493, see the Senate Fiscal Agency's analysis of those bills dated 6-3-99).

House Bill 4659 would amend the Emergency Telephone Service Enabling Act to re-establish, with some changes, the Emergency Telephone Service Committee, which was repealed on December 31, 1998 by a sunset provision. The committee would be created within the Department of State Police and would develop statewide standards and model system considerations and make other recommendations for emergency telephone services. The committee would have 21 members, including the following persons or their designated representatives: the director of the Department of State Police, the director of the Department of Consumer and Industry Services, the chair of the Michigan Public Service Commission, the president of the Michigan Sheriffs' Association, the president of the Michigan Fire Chiefs Association, the executive director of the Michigan Association of Counties, the executive director of the Michigan Fraternal Order of Police, the president of the Michigan State Police Troopers Association, the president of the Michigan Chapter of the Associated Public Safety Communications Officers, the president of the Michigan Chapter of the National Emergency Number Association, the executive director of the Upper Peninsula Emergency Medical Services Corporation, the executive director of the Michigan Association of Ambulance services, and the president of the Michigan Communications Directors Association. In addition, the committee would include one representative of commercial mobile radio service appointed by the governor and three members of the general public. Of the three members of the general public, one would be appointed by the governor, one by the Speaker of the House of Representatives, and one by the Senate Majority Leader. The members of the general public would serve for two-year terms and would have to have expertise relating to telephone systems, rural health care concerns, or emergency radio communications, dispatching, and services.

The committee would need a majority of its members to constitute a quorum in order to do business and exercise its powers. Official action would require a

majority vote of the committee's members. The committee would elect a member who was not a member of the wireline or commercial mobile radio service industry to serve as chairperson for a one-year term. The committee could adopt, amend, and rescind bylaws, rules, and regulations for the conduct of its business. Members of the committee would not be compensated, but would be entitled to actual and necessary expenses incurred in the performance of their official duties.

The committee would be required to: organize and adopt standards to govern the committee's formal and informal procedures; meet no less than four times per year at a place and time specified by the chairperson; provide recommendations to public safety answering points and secondary public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs; provide recommendations to public agencies concerning model systems to be considered when preparing a 9-1-1 service plan; and perform other duties as needed to promote successful development, implementation, and operation of 9-1-1 systems across the state.

The state police and the Public Service Commission would be required to provide staff assistance for the committee as needed to carry out the committee's duties. The business of the committee would be conducted at public meetings held in compliance with the Open Meetings Act and notice of the time, date, and place of the meeting would have to be given according to the provisions of the Open Meetings Act. Any writings prepared, owned, used, possessed by, or retained by the committee in the performance of an official function would have to be made available to the public under the Freedom of Information Act.

The bill would also repeal the provisions of the Emergency Telephone Service Enabling Act that currently provide for the act to be repealed effective December 31, 2002, and instead establish a sunset date of December 31, 2006.

House Bill 4658 would create a state commercial mobile radio service emergency telephone fund.

Fund. The purpose of the fund would be to provide money to implement the "wireless emergency service order" (the order of the Federal Communications Commission, FCC docket number 94-102, adopted June 12, 1996 - as defined in Senate Bill 492) and the Emergency Telephone Service Enabling Act. The fund would be created within the state treasury with restricted sub-accounts within the fund for the

categories based on how the money was to be disbursed as described below and would be audited at least annually by the auditor general. The treasurer would be required to direct the investment of the fund assets and could receive money or other assets from any source for deposit in the fund. Deposits and disbursements of money to and from the fund could be done through electronic funds transfer. Interest and earnings on money in the fund would be credited to the fund and any money in the fund at the close of the fiscal year would remain there and would not lapse into the general fund.

Each commercial mobile radio service (CMRS) supplier or reseller would be required to include a 55 cent service charge per month for each CMRS connection that had a billing address in this state. The charge would not be subject to state or local taxes and would be listed separately on each bill as a "emergency 9-1-1 charge." Suppliers and resellers would be required to implement the billing provisions no later than 120 days after the effective date of the bill. The money collected would be deposited in the fund no later than 30 days after the end of the quarter during which the charge was collected. After the first two years, the amount charged would be reduced to 52 cents. [Note: The term "commercial mobile radio service" as defined in Senate Bill 492 would mean that service as regulated under the Federal Communications Act and would include wireless two-way communications devices like 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, or a network radio access line.]

The supplier or reseller who billed the customer for the service charge would keep one-half of one cent from each service charge it had billed as the only reimbursement from that charge for the costs of billing and collection. As long as a supplier or reseller had billed the customer for the service charge, it would not be liable for an uncollected service charge. If a supplier or reseller received partial payment on a bill, the money paid would be credited in the following order of priority: to pay for services provided, for reimbursement for the supplier's or reseller's costs, and, lastly, to pay the balance of the service charge. Money from partial payments that were sufficient to be applied in part to the service charge would be forwarded to the fund. Any uncollected portions of the service charge would continue to be billed and, upon receipt, amounts in excess of the supplier's

reimbursement amount would be forwarded to the fund.

With the exception of the amount retained for reimbursement of the supplier, the money collected and deposited into the fund would be distributed as follows:

- 25 cents of each monthly service charge would be used by CMRS suppliers licensed by the FCC for providing and installing equipment to implement the wireless emergency service order and the Emergency Telephone Service Enabling Act.
- 10 cents of each service charge would go equally to each county that has a final 9-1-1 plan that includes implementing the wireless emergency service order and the Emergency Telephone Service Enabling Act in place. The Emergency Telephone Service Committee (ETSC) would be required to certify to the Department of Treasury annually those counties that had a final 9-1-1 plan in place.
- Another 15 cents would be distributed to those same counties on a per capita basis. Determination of the population of each county for the per capita basis would be made by the most recent census conducted by the United States Census Bureau.

[Note: The term "final 9-1-1 plan" -- used in section 409 (1)(a) and (b) -- is not defined in the act -- the term used in the definition section is "final 9-1-1 service plan."]

- For the first 2 years after the bill took effect, 3 cents would go to the Department of State Police to fund priority issues of 9-1-1 coverage. The department would be required to prepare an annual list of projects recommended for funding in order of priority. The legislature would annually approve these projects by law. If a project provided infrastructure or equipment that would be used CMRS suppliers, the department would be required to charge a reasonable fee to the use of that infrastructure or equipment. The fees collected for such use would be deposited in the fund and used to fund the priority issues of 9-1-1 coverage.
- The remaining one and one-half cents would be available to the public safety answering points (PSAPs) for training personnel assigned to 9-1-1 centers. In order to receive money from the fund for PSAP training, a public safety agency or county would have to make a written request to the committee. The Emergency Telephone Service Committee would semi-annually authorize distribution of money from the fund to eligible counties or public safety agencies based upon the requests. Eligible public safety agencies or counties could only receive money from the fund for

courses certified by the Michigan Commission on Law Enforcement Standards and would provide either basic 9-1-1 operations training or in-service training for employees engaged in 9-1-1 service for primary public safety answering point (PSAP) personnel. Any public safety agency or county that received money from the fund for such training would be required to create, maintain, and, upon request make available to the committee a detailed record of the expenditures related to the preparation, administration, and carrying out of its 9-1-1 training program. Money that the county or public safety agency had expended for purposes that the committee or auditor general considered unreasonable or unnecessary would have to be repaid to the fund.

The counties that received money, either as part of the equal distribution or the per capita distribution for having a final 9-1-1 service plan in place, would be required to use that money only to implement the wireless emergency service order and the Emergency Telephone Service Enabling Act. Any distributed money that was expended for a purpose that was not considered necessary or reasonable for those purposes by the ETSC or the auditor general would have to be repaid to the fund. After the first year from bill's effective date, a county would only be eligible to receive these disbursements if it were in compliance with the wireless emergency service order and the Emergency Telephone Service Enabling Act. Furthermore, the counties that received money from the fund would be required to distribute that money according to the following restrictions. The county would have to distribute the money to one of the primary PSAPs geographically located in the 9-1-1 service district by one of the following methods: Distribution could be done as provided in the final 9-1-1 service plan. If distribution was not provided for in the plan, then it could be done according to any agreement for distribution between the county and public agencies. If neither the plan nor any agreement provided for distribution, then it could be done according to the population within the geographic area for which the PSAP serves as primary PSAP. If a county with a final 9-1-1 service plan did not accept 9-1-1 calls through a direct dispatch method, relay method, or transfer method from a mobile phone user, the money collected would be distributed to the entity or county that was responsible for accepting and responding to those calls. If a county had multiple

emergency telephone districts, money for that county would have to be distributed as provided in the emergency telephone districts' final 9-1-1 service plans.

Subcommittee. The Emergency Telephone Service Committee (ETSC) would be required to appoint a subcommittee to review the expenditures authorized from the CMRS Emergency Telephone Fund. The subcommittee would include: 1) the member of the full committee who represented the Department of State Police as chair of the subcommittee, 2) the member of full committee who represents a commercial mobile radio service provider; 3) the member of the committee who represents the Michigan Association of Counties; 4) a member of the committee who represents a public safety agency who is not associated with the service supplier industry; and 5) a person, appointed by the chair of the full committee, who represents the commercial mobile radio service industry and is not a member of full committee.

The subcommittee would need a majority of its members to constitute a quorum and to do business and exercise its powers. The subcommittee would be required to review and approve or disapprove the payment of the invoices submitted by CMRS suppliers for reimbursement from the fund. In order to be approved, an expense would have to be related to complying with the wireless emergency service order. Approval of invoices would be by majority vote of the subcommittee and the chair of the subcommittee would only vote in order to break a tie. Before the invoices were reviewed, staff assigned by the Department of State Police to assist the ETSC would remove all the information that identified the supplier who had submitted the invoice. After receiving the subcommittee's recommendations, the full committee would then review and approve or disapprove the invoices and authorize payment for those invoices that it approved. The subcommittee could recommend that the committee pay a supplier's expense before the expense had been incurred. Any expense that exceeded 125 percent of the CMRS emergency telephone charges would not be approved, unless the CMRS supplier had prior approval of the charges from the subcommittee.

Any information submitted by a supplier for review by the subcommittee would be exempt from the Freedom of Information Act and could not be released by the chair without the supplier's permission. Information submitted by suppliers could only be released in the

aggregate so that the number of users or the expenses and revenues of a supplier could not be identified.

Expenses. The money from the fund could be used by a CMRS supplier for monthly recurring costs, start-up costs, and non-recurring costs associated with installation, service, software, and hardware needed to comply with the wireless emergency services order and the Emergency Telephone Service Enabling Act. If the total amount of money approved for payment by the subcommittee in the invoices exceeded the amount remaining in the fund, all the suppliers that had submitted invoices and were recommended to receive payment would receive a pro rata share of the money available in the fund for that quarter. Any unpaid balance would be carried over to the following quarter until all of the recommended payments were made.

Report. The ETSC would be required to complete a cost study and report on the effectiveness of the service charge no later than August 30, 2000 and April 30 annually after 2000. The report would have include at a minimum all of the following:

- The extent of emergency telephone service implementation in this state by CMRS suppliers and the actual costs incurred by primary public safety answering points (PSAPs) and CMRS suppliers in complying with the requirements of the wireless emergency service order and the act.
- Information regarding the adequacy of the service charge and, if needed, a recommendation to change the service charge amount to adequately fund the costs of meeting the time frames in the wireless emergency service order and the act.
- A description of any commercial applications that been developed as a result of the implementation of the act.
- A detailed record of expenditures by each county relating to the implementation of the wireless emergency service order and the act.

Copies of the study would have to be delivered to the Secretary of the Senate, the Clerk of the House of Representatives, and the standing committees of the House and Senate with jurisdiction over issues of telecommunications technology. Upon receipt of this report the legislature would be required to consider the report's findings and make a determination whether an fee needed to be adjusted.

Sunset. The bill would provide for the section of the bill relating to the establishment of the emergency 9-1-1 charge and its distribution to be repealed automatically on January 1, 2004.

MCL 484.1201 et al.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The advent and rapid increase in the use of cellular or wireless telephone service has led to an increasing number of 9-1-1 calls from wireless phones. However, under the current 9-1-1 system, the only way for the PSAP to determine the identification and location of the caller is by questioning the caller. Unfortunately, not everyone is clear-headed when making an emergency phone call and often wireless callers may have no precise idea where they are when they call. According to a recent report prepared by the Uniform Services Bureau in the Department of State Police, the State Police Metro Dispatch in Detroit answers 84,300 calls per month, and 51 percent of them are CMRS calls. Further, according to an article in 9-1-1 Magazine, 25 percent 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. This bill will make sure that wireless emergency phone calls can be tracked as quickly as land wire calls. This will mean quicker response times, which will save lives.

A small fee for wireless users will ensure that the state is completely covered -- that is, the gaps in service areas for wireless phones will be filled in and wireless 9-1-1 calls made anywhere in the state will be responded to as quickly and as accurately as land line calls.

Against:

Questions have been raised, but not answered, about how much money it will cost to improve the technology in order to allow for E911 for wireless phones and how the money should be distributed. Further, other than several anecdotes, no one has

offered any facts regarding the necessity of such an upgrade. Given the cost to the taxpayers, it should be known how often incidents occur where this improved technology would provide better service. Compared to the total number of calls received, how often are calls received where the caller is unable to accurately describe his or her location? Given the number of times this occurs, is the amount that the bill would spend reasonable in light of the improvements offered? Are we spending this money to protect against a one in a million situation? One in one hundred?

Furthermore, is the 55 cent user fee adequate? Or, since an earlier version of the legislation proposed a 47 cent user fee, is the fee excessive? Before a 55 cent a month increase is placed on all wireless phone users in this state, thorough examination should be made to determine whether the amount sought is an appropriate amount.

Response:

According to a representative from AT&T, the average fee for the 28 states that are already collecting 9-1-1 fees from wireless customers is between 42 and 65 cents. The lowest fee is in Arizona (10 cents) and the highest statutorily set fees for all customers are in Oregon, West Virginia, and Virginia (75 cents). In addition, several states have set statutory maximums with the actual rate to be set by a state board or the county governments. In Louisiana, different rates are allowed for residential users as opposed to business users.

Further, the ETSC would be given the authority to lower the fee should it prove excessive or if, at any later date, it appears unnecessary. In fact, a portion of the fee will be eliminated automatically two years after the bill's effective date and the entire service charge provision will be subject to sunset on January 1, 2004.

Against:

The language of the provision prohibiting a county from receiving disbursements unless it is in compliance with the wireless emergency service order and the act after the first year following the bill's effective date is problematic. The time period should be one year from when the county first receives a disbursement from the fund, in order to give the counties ample opportunity to use the money from the fund to comply.

Against:

The bill would require most, if not all, the counties with final 9-1-1 service plans to re-open their plans

and amend them to include language implementing the wireless emergency service order and the act. It is possible, even likely, that many counties' 9-1-1 service plans don't include language directly referencing the wireless emergency service order and thus those plans would have to be amended to include such a reference in order to receive disbursements of the service charge. This seems excessive, since the bill's provisions also would prohibit a county from receiving disbursements from the fund after the first year if the county was not in compliance with the wireless emergency service order and the act.

Response:

The inclusion of references to the wireless emergency service order in a county's final 9-1-1 service plan is necessary. It will prevent a county from accepting money from the fund without having the intention to use the funds to implement the wireless emergency service order as part its plan. It does not seem unreasonable to require a county's service plan to include specific reference to the wireless emergency service order, given that the money from the fund is intended for the purpose of implementing that order.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.