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House Bill 4439 (Substitute H-4 as passed by the House)
Sponsor: Representative Ken Bradstreet
House Committee: Energy and Technology
Senate Committee: Technology and Energy

Date Completed: 12-3-03

CONTENT

The bill would amend the Emergency Telephone Service Enabling Act to do the following:

- **Delete a January 1, 2004, sunset on the monthly service fee that a commercial mobile radio service (CMRS) supplier or retailer must charge and deposit into the CMRS Emergency Telephone Fund.**
- **Allow a CMRS supplier to submit an invoice to the Emergency Telephone Service Committee for reimbursement from the Fund for equipment costs incurred in implementing the Wireless Emergency Service Order and the Act.**
- **Require a CMRS supplier that sought reimbursement to lower the service charge from 52 cents to 29 cents per month after December 31, 2005; and require a CMRS supplier that did not seek reimbursement to impose the lower charge immediately.**
- **Require counties to comply with the Order by specific dates in order to receive money from the Fund.**
- **Allow the Michigan State Police (MSP) to receive money from the Fund for costs to administer the Act or to operate a regional dispatch center.**
- **Require the Michigan Public Service Commission (PSC) to establish the costs that a local exchange provider could recover in terms of the costs related to the Order; and allow a local exchange provider to submit an invoice to the PSC for reimbursement from the Fund for costs incurred that were allowed.**

The bill would take effect on January 1, 2004. It is described in further detail below.

(The Wireless Emergency Service Order requires local exchange carriers to provide enhanced 9-1-1 (E-911) service to all customers. Enhanced 9-1-1 service provides for the identification of a caller's location and telephone number. The Order was issued by the Federal Communications Commission (FCC) in June 1996, and took effect on October 1, 1996. The Order was supposed to be implemented in two phases. Phase 1 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 was disconnected. Under Phase 2, by October 2001, carriers had to be able to identify the latitude and longitude of a wireless call within a radius of 125 meters in 67% of all cases.)

Service Charge & Reimbursement

Section 408 of the Act requires a CMRS supplier or reseller to include a service charge of 52 cents per month for each CMRS connection (cellular telephone connection) with a Michigan billing address. The supplier or reseller must list the charge as a separate line item called the "emergency 9-1-1 charge". The bill would delete a January 1, 2004, sunset on Section 408.

Starting on that date, a CMRS supplier or reseller would have to include the charge as a separate line item called the "operational 9-1-1 charge".

The bill would allow a CMRS supplier to submit to the subcommittee created under Section 410 an invoice for reimbursement from the Fund for costs incurred in implementing the Wireless Emergency Service Order and the Act. (Under Section 410, the Emergency Telephone Service Committee is required to appoint a subcommittee to review expenditures from the Fund. The subcommittee must review invoices submitted by CMRS suppliers for reimbursement of expenses related to complying with the Order and the Act.)

Within 90 days after an invoice was submitted, the subcommittee would have to review it and make a recommendation to the Committee for the approval, in whole or in part, or denial of the invoice. The Committee could approve an invoice only if it were for costs directly related to the provision and installation of equipment that implemented the Order and the Act. The Committee would have to authorize payment in accordance with the subcommittee's recommendations.

Before July 1, 2004, all CMRS suppliers would have to notify the Committee in writing whether they would seek reimbursement from the Fund for costs incurred until December 31, 2005, in implementing the Order and the Act. If a supplier elected to seek reimbursement, it would have to continue imposing the 52-cent monthly charge until December 31, 2005. After that date, the supplier would have to lower the charge to 29 cents per month. A supplier that notified the Committee that it would not seek reimbursement would have to lower the charge to 29 cents per month immediately and could not seek reimbursement from the Fund for costs incurred after it provided notification.

Under the Act, if the total amount from the invoices approved for reimbursement exceeds the amount remaining in the Fund in any quarter, all CMRS suppliers that have submitted invoices that are approved by the Committee must receive a pro rata share of the money available in that quarter. The bill would delete a provision that any unpaid balance is carried over to the following quarter until all of the approved payments are made.

MSP Administrative & Operational Costs

The MSP could receive money from the Fund for costs to administer the Act or operate a regional dispatch center. A breakdown of the costs would have to be included in the annual report required under Section 412 of the Act. (That section requires the Committee to deliver an annual report on the service charge to the Secretary of the Senate, the Clerk of the House of Representatives, and the standing committees of both chambers having jurisdiction over telecommunication technology issues.) The costs could not exceed one-half of one cent of the monthly service charge. If the MSP established the position of E-911 Coordinator, the costs could not exceed one cent of the service charge.

Distribution of Fund Money

Section 409 contains the formula for distribution of money from the Fund. The bill would repeal Section 409 but re-enact the formula in Section 408. Currently, all money collected and deposited in the Fund must be distributed as follows:

- Twenty-five cents of each monthly service charge must be disbursed to reimburse CMRS suppliers licensed by the FCC for providing and installing equipment that implements the Order and the Act.
- Ten cents of each service charge must be disbursed equally to each county with a final 9-1-1 plan that includes implementing the Order and the Act.
- Fifteen cents of each service charge must be disbursed on a per capita basis to each county

with a final 9-1-1 plan in place
-- One and one-half cents must be available to PSAPs for training personnel assigned to 9-1-1 centers.

(A PSAP is a communications facility that receives 9-1-1 calls.)

The bill also would require money in the Fund to be distributed, as provided in the bill, to CMRS suppliers for costs incurred in implementing the Order and Act; to the MSP for administrative and operational costs; and to local exchange providers for costs related to the Order.

The bill would retain a requirement that a county distribute money it receives from the Fund to the primary PSAPs geographically located within the 9-1-1 service district by one of the methods identified in the Act. In addition, the bill would retain provisions under which the MSP annually must prepare a list of projects in priority order that it recommends for funding; and the Legislature must review and approve projects by law annually.

Currently, for purposes of the per-capita disbursement to counties that have a final 9-1-1 plan in place, the Committee must certify to the Department of Treasury annually which counties have a final plan in place. Under the bill, the Committee would have to make this certification quarterly.

Compliance Requirements

The bill would maintain a requirement that a county be compliant with the Order and the Act in order to receive disbursements from the Fund. Under the bill, a county would have to be compliant with Phase 1 implementation by June 30, 2004, and Phase 2 implementation by June 30, 2005. A county that was not compliant with phases 1 and 2 by those dates could use the disbursements only for purposes of becoming compliant. A county that was not compliant with Phase 1 implementation by December 31, 2004, and Phase 2 implementation by December 31, 2005, would not be eligible to receive disbursements. Once the Committee determined that an ineligible county was compliant, the county could begin receiving disbursements. The bill specifies that "compliant" would mean the county had installed equipment that was capable, and at a state of readiness, to deploy wireless service for all CMRS providers within a county's 9-1-1 service district or districts.

Local Exchange Providers

Following a contested case, within 180 days of the bill's effective date, the PSC would have to issue an order establishing the costs that a local exchange provider could recover in terms of the costs related to the Wireless Emergency Service Order. Any reimbursement could not include a cost that was not related to complying with the Order. A local exchange provider could submit an invoice to the PSC for reimbursement from the Fund for costs incurred that were allowed under the PSC's order. Within 45 days after an invoice was submitted, the PSC would have to make a recommendation to the Committee for the approval, in whole or in part, or the denial of the invoice. The Committee would have to authorize payment in accordance with the PSC's recommendation. ("Local exchange service" would mean a provider of regulated basic local exchange service as defined in Section 102 of the Michigan Telecommunication Act, i.e., the provision of an access line and usage within a local calling area for the transmission of high-quality two-way interactive switched voice or data communication.)

Currently, except for a CMRS, a dispute between or among one or more service suppliers, counties, public agencies, and PSAs regarding their respective rights and duties must be heard as a contested case before the PSC. The bill also would exempt local exchange providers.

FISCAL IMPACT

The revenue from the 52-cent service charge under the current Act has generated over \$88.0 million since FY 1999-2000. For FY 2002-03, approximately \$28.0 million was generated for the following designated areas under the Act:

Charge (cents)	Designation	FY 2002-03 Revenue (millions)
25.5	CMRS Suppliers	\$13.8 million
10.0	CMRS County-Equal	\$5.4 million
15.0	CMRS County-Per Capita	\$8.0 million
1.5	CMRS PSAP	\$0.8 million
Total:	52.0	\$28.0 million

Under House Bill 4439 (H-4), the CMRS suppliers that opted out of potential reimbursement for their cost by the State would charge only a 29-cent service fee. The same reduction in fee assessment for those CMRS suppliers that chose State reimbursement for costs would be required after December 31, 2005. Under the bill, the counties and the CMRS PSAP would continue to receive the designated money as under the current 52-cent service charge, but the money also could be used to support costs incurred by the Michigan State Police and CMRS suppliers.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.