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Senate Bills 410 and 411 (as enacted)
 Sponsor: Senator Cameron S. Brown (S.B. 410)
 Senator Raymond E. Basham (S.B. 411)
 Senate Committee: Energy Policy and Public Utilities
 House Committee: Appropriations

PUBLIC ACTS 164 & 165 of 2007

Date Completed: 7-24-09

RATIONALE

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 allowed service suppliers to levy emergency telephone operational charges. In addition, counties could assess a charge or millage to cover emergency telephone operational costs, with voter approval.

In the late 1990s, some people raised concerns about disparities in 9-1-1 funding due to the emergence of new technologies. As more people abandoned landlines in favor of cellular phones, which were not subject to the surcharges, the revenue available to fund 9-1-1 systems declined significantly. In 1999, legislation amended the Act to authorize the assessment of 9-1-1 surcharges on wireless customers. Since that time, some wireless providers began offering prepaid plans with no contracts. Customers using this type of service fell outside the scope of the Act's language regarding the assessment of 9-1-1 surcharges. Additionally, consumers choosing internet-based telephone service (voice over internet protocol, or VOIP) also were not subject to 9-1-1 surcharges. In response to these concerns, Public Act 249 of 2006 required the State 9-1-1 Director to submit to the Legislature recommendations for long-term funding of the 9-1-1 system. The Director prepared a report (described below, under **BACKGROUND**), which was adopted by the Emergency Telephone

Service Committee and submitted to the Legislature in November 2006. The Committee's recommendations included the replacement of the previous funding system with a two-tiered system that would apply to all communication methods capable of gaining access to 9-1-1 service. It was suggested that the recommendations be enacted. Also, since the enabling Act was scheduled to expire at the end of 2007, it was suggested that the sunset be delayed.

CONTENT

Senate Bill 410 amended the Emergency Telephone Service Enabling Act to do the following:

- **Change the name of the Act to the "Emergency 9-1-1 Service Enabling Act".**
- **Refer to "emergency 9-1-1 service", rather than "emergency telephone service".**
- **Prohibit an emergency 9-1-1 service system from being implemented except as provided under the Act.**
- **Require each service supplier in the State to give each of its service users access to the 9-1-1 system.**
- **Include in the definition of "service supplier" all modes of telecommunication with 9-1-1 capabilities.**
- **Require, rather than permit, a board of county commissioners to modify an existing 9-1-1 service or the scope or method of financing it.**
- **Establish a June 30, 2008, sunset on provisions related to the emergency telephone technical charge and the**

emergency telephone operational charge, but reenact provisions for a technical charge.

- Establish a monthly 19-cent State 9-1-1 charge effective July 1, 2008, and provide for adjustments to it.
- Require each service supplier to bill and collect the State 9-1-1 charge.
- Require the amount collected from the State 9-1-1 charge to be deposited in the "Emergency 9-1-1 Fund" (previously the CMRS Emergency Telephone Fund).
- Allow a county board of commissioners, beginning July 1, 2008, to assess a county 9-1-1 charge by resolution, millage, or with voter approval, replacing provisions for an emergency telephone operational charge.
- Allow a service supplier to retain 2% of the county 9-1-1 charge to cover the cost of billing and collections.
- Beginning July 1, 2008, require each commercial mobile radio service (CMRS) supplier or reseller to collect an emergency 9-1-1 charge from each of its prepaid customers, and require the money to be deposited in the Emergency 9-1-1 Fund.
- Require the Public Service Commission (PSC), in consultation with the Emergency 9-1-1 Service Committee (previously the Emergency Telephone Service Committee), to establish the amount of the State 9-1-1 charge annually, until 2011.
- Require the Legislature to make any adjustments to the State 9-1-1 charge, beginning in 2011.

Senate Bill 411 amended the Act to do the following:

- Delay the Act's sunset.
- Prohibit a service supplier from altering the State or county 9-1-1 charge except as provided in the Act.
- Allow the PSC to promulgate rules requiring each service user with a multiline telephone system to install by December 31, 2011, equipment and software to provide specific location information of a 9-1-1 call.
- Allow the PSC to promulgate rules establishing the standard for county certification of the receipt and expenditure of 9-1-1 funds.

- Require the PSC to consult with the Committee in promulgating rules.
- Provide that the receipt of 9-1-1 funds will depend on compliance with the standards established by the PSC.
- Eliminate a requirement that Fund money be appropriated in order for the Department of Treasury to spend it.
- Delete a requirement that a CMRS supplier or reseller impose a monthly service charge of 52 cents for each Michigan CMRS connection.
- Beginning July 1, 2008, require all service suppliers to include a monthly State 9-1-1 service charge (as established under Senate Bill 410) on service users' bills.
- Allow a service supplier to retain 2% of the State 9-1-1 charge for the costs of billing and collection.
- Delete a provision allowing a CMRS supplier or reseller to retain half of one cent of each service charge to cover billing and collection costs.
- Delete provisions allowing a CMRS supplier to seek reimbursement from the Fund for the costs of implementing the Wireless Emergency Service Order and the Act.
- Revise the distribution of money from the Emergency 9-1-1 Fund, and earmark funds to study the feasibility of an IP-based 9-1-1 system.
- Allow the PSC to promulgate rules establishing training standards for 9-1-1 personnel.
- Delete provisions under which a county that was not compliant with the Order by specified deadlines was ineligible for disbursements from the Fund.
- Require the Committee to report to the Legislature annually on the 9-1-1 system in Michigan and on the State and county 9-1-1 charges.
- Require the Committee to develop a voluntary informal process for resolving disputes arising from the formulation, implementation, and delivery of 9-1-1 services.
- Increase the criminal penalties for improper use of an emergency 9-1-1 service.

The bills were tie-barred to each other and took effect on December 21, 2007.

Senate Bill 410

Emergency 9-1-1 Service System

Previously, except as otherwise provided, a universal emergency number service system could not be implemented under the Act unless a tariff existed for each service supplier designated by the final 9-1-1 service plan to provide 9-1-1 service in the universal emergency number system. The bill instead prohibits an emergency 9-1-1 service system from being implemented except as provided under the Act.

("Service supplier" previously meant a person providing a telephone service or CMRS to a service user in Michigan. Under the bill, the term means a person providing a communication service to a service user in Michigan. The bill defines "communication service" as a service capable of gaining access to, connecting with, or interfacing with a 9-1-1 system by dialing, initializing, or otherwise activating the 9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, voice over the internet device, or any other means.

"Service user" previously meant an exchange access facility or CMRS service customer of a service supplier within a 9-1-1 system. Under the bill, the term means a person receiving a communication service. "Exchange access facility" means the access from a particular service user's premises to the communication service, including service supplier provided access lines, PBX trunks, and Centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the PSC. The term does not include telephone pay station lines or WATS, FX, or incoming only lines. The Act previously referred to the telephone system, rather than communication service.)

The bill authorizes one or more counties to create an emergency 9-1-1 service system under the Act. Also, in a county with a population of at least 1.8 million, with the approval of the county board of commissioners, four or more cities may create an emergency 9-1-1 service district (formerly called an emergency telephone district). (Senate Bill 411 repealed similar provisions. Under the previous provision applying to four or more cities, the county

population had to be at least 2.0 million.) (A 9-1-1 service district or emergency 9-1-1 district is the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under the Act.)

The bill requires each service supplier in the State to give each of its service users access to the 9-1-1 system. Each service supplier also must give the Emergency 9-1-1 Service Committee contact information to allow for notifications as required under the Act.

Modification

Under the bill, if all or part of a county is operating an emergency telephone service, the county board of commissioners must modify the existing service or alter the scope or method of financing of 9-1-1 service within all or part of the county by establishing an emergency 9-1-1 district and causing 9-1-1 service to be implemented within the district under the Act. The Act previously allowed, rather than required, the board to modify the existing service or scope or method of financing.

Tentative & Final 9-1-1 Service Plans

Under the Act, the clerk of each county that has adopted a tentative 9-1-1 service plan must give notice of a required hearing on the final service plan. The notice must be published twice in a newspaper of general circulation within the county, the first publication occurring at least 30 days before the hearing. The notice must contain specified information, including that if the county board of commissioners, after a hearing, adopts the final 9-1-1 service plan, the State 9-1-1 charge and, if approved, a county 9-1-1 charge must be collected on a uniform basis from all service users within the 9-1-1 service district. The Act previously referred to an emergency telephone technical charge and an emergency telephone operational charge, rather than the State 9-1-1 charge and a county 9-1-1 charge, respectively.

Under the Act, after a final 9-1-1 service plan has been adopted, a county may amend it only by complying with specific procedures. Upon a county board of commissioner's adoption of an amended final plan, the county must forward the plan to the service supplier or suppliers

designated to provide 9-1-1 service within the service district as amended. Upon receiving the amended final plan, each designated service supplier must implement as soon as feasible the amendments to the final service plan in the service district as amended.

Under the bill, a county board of commissioners also may, by resolution, make minor amendments to the final 9-1-1 service plan for any of the following:

- Changes in public safety answering point (PSAP) premises equipment, including computer-aided dispatch systems, call processing equipment, and computer mapping.
- Changes involving the participating public safety agencies within a 9-1-1 service district.
- Changes in the 9-1-1 charges collected by the county subject to the limits under the Act.

("Tentative 9-1-1 service plan" means a plan prepared by at least one county for implementing a 9-1-1 system in a specified 9-1-1 service district. "Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any exclusions of public agencies from the 9-1-1 service district of the tentative plan and any failure of public safety agencies to be designated as PSAPs or secondary PSAPs.

"Public safety agency" means a functional division of a public agency, county, or the State that provides fire-fighting, law enforcement, ambulance, medical, or other emergency services. "Public safety answering point" means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch, relay, or transfer methods. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any. "Secondary PSAP" means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.

A public agency is a village, township, charter township, or city within the State and any special purpose district located in whole or in part within the State.)

Agreement with Public Agency

The Act allows 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 to enter into an agreement with a public agency that does either of the following:

- Grants 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.
- Provides for payment directly to the public entity issuing qualified obligations of a portion of the emergency telephone operational charge or, under the bill, the State 9-1-1 charge sufficient to pay when due principal of and interest on qualified obligations.

Technical & Operational Charges

The bill established an expiration date of June 30, 2008, on the provisions of the Act described below, but reenacted similar provisions regarding an emergency telephone technical charge.

Except as otherwise provided, each service supplier within a 9-1-1 service district had to provide a billing and collection service for an emergency telephone technical charge and operational charge from all of its users within the geographical boundaries of the emergency telephone or 9-1-1 service district. The charges had to be uniform per each exchange access facility within the 9-1-1 service district. The portion of the technical charge that represented start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, had to be amortized at the prime rate plus 1% over a period of up to 10 years and could be billed and collected from all service users only until the service supplier recouped those amounts fully. Recurring costs and charges included in the technical and operational charges had to continue to be billed to the service user.

The amount of the technical and operational charges to be billed to the service user had to be computed as required by the Act. Except as otherwise provided, the amount of technical charge payable monthly by a service user for recurring costs and charges could not exceed 2% of the lesser of \$20 or the highest monthly rate the service supplier charged for primary basic local exchange service within the 9-1-1 service district. The amount of technical charge payable monthly by a service user for nonrecurring costs and charges could not exceed 5% of the lesser of \$20 or the highest monthly rate the service supplier charged for primary basic local exchange service under the Michigan Telecommunications Act within the 9-1-1 service district.

With the approval of the county board of commissioners, a county could assess an amount for recurring emergency telephone operational costs and charges that could not exceed 4% of the lesser of \$20 or the highest monthly rate the service supplier charged for primary basic local exchange service within the county. The percentage to be set for the operational charge had to be established by the county board of commissioners. The difference, if any, between the amount of the technical charge computed under the Act and the maximum permitted under this provision had to be paid by the county from funds available to it or through cooperative arrangements with public agencies within the 9-1-1 service district.

Except as otherwise provided, the technical and operational charges had to be collected in accordance with the regular billings of the service supplier. The amount collected for the operational charge had to be paid by the service supplier to the county that authorized the collection. The technical and operational charges payable by service users had to be added to, and stated separately in, the billings to service users.

The bill reenacted similar provisions, but refers to a "local exchange provider", rather than a "service supplier". The bill refers to the technical charge, but not the operational charge. The amount of the emergency telephone technical charge must be computed by dividing the total technical charge by the number of exchange access facilities within the 9-1-1 service district.

Additionally, the bill established an expiration date of June 30, 2008, on the provisions of the Act described below.

Except as otherwise provided, a county could, with the approval of the voters in the county, assess up to 16% of the lesser of \$20 or the highest monthly rate charged by the service supplier for primary basic local exchange service within the county, or assess a millage or combination of the two to cover emergency telephone operational costs. An assessment approved under these provisions was for a period of up to five years.

The total operational charge under the provisions allowing a county to assess an additional charge for recurring costs and an additional charge or millage to cover operational costs could not exceed 20% of the lesser of \$20 or the highest monthly flat rate charged for primary basic service by a service supplier for a one-party access line.

An annual accounting had to be made of the approved operational charge as prescribed in the Act. (The provisions related to the accounting were deleted by Senate Bill 411.)

Except as otherwise provided, the operational charge had to be distributed by the county or counties to the primary PSAPs as provided in the final 9-1-1 service plan, according to any agreement for distribution between the county and public agencies, or according to the distribution of access lines within the primary PSAPs, as applicable.

State 9-1-1 Charge

Under the bill, except as otherwise provided, each service supplier within a 9-1-1 service district must bill and collect a State 9-1-1 charge from all of the service supplier's service users within the geographical boundaries of the 9-1-1 service district or as otherwise provided in the bill. The billing and collection of the State 9-1-1 charge had to begin on July 1, 2008. The State 9-1-1 charge must be uniform per each service user within the service district.

The amount of the State 9-1-1 charge payable monthly by a service user must be established as described below. The amount may not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided in the bill.

The State charge must be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under the Act, the amount collected for the State charge must be paid quarterly by the service supplier to the State Treasurer and deposited in the Emergency 9-1-1 Fund (previously called the CMRS Emergency Telephone Fund and renamed by Senate Bill 411). The charge must be listed separately on the customer's bill or payment receipt.

The initial charge was set at 19 cents and became effective July 1, 2008. The charge must reflect the actual costs of operating, maintaining, and upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this State.

In consultation with the Committee, the PSC must review and may adjust the charge and the distribution percentages of the Emergency 9-1-1 Fund to be effective on January 1, 2009, and January 1, 2010. (The percentages are prescribed by Senate Bill 411.) Any adjustment to the charge by the PSC must be made by October 1 of the preceding year, and be based on the Committee's recommendations. Any adjustment to the charge or the distribution percentages after December 31, 2010, must be made by the Legislature.

If a service user has multiple access points or access lines, the State 9-1-1 charge must be imposed separately on each of the first 10 access points or lines and then one charge for each 10 access points or lines per billed account.

These provisions took effect on July 1, 2008.

County 9-1-1 Charge

Under the bill, in addition to the State 9-1-1 charge, after June 30, 2008, a county board of commissioners may, by resolution, millage as otherwise allowed by law, with the approval of voters in the county, or any combination of those methods, assess a county 9-1-1 charge. The board must state in the resolution, ballot question, or millage request the anticipated amount to be generated.

(Public Act 379 of 2008 (House Bill 6070) subsequently amended these provisions to allow a county board of commissioners to

assess a county 9-1-1 charge to service users located within that county by one of the following methods:

- Up to 42 cents per month by resolution.
- Up to \$3 per month with the approval of the voters in the county.
- Any combination of the previous two methods with a maximum charge of \$3 per month.

A county assessing a county charge approved in the PSC's order in Case No. U-15489 that exceeds these amounts may continue to assess the approved amount. Any proposed increase is subject to the rate limits.)

The county 9-1-1 charge may not exceed the amount necessary to implement, maintain, and operate the 9-1-1 system in the county.

If voters approve the charge to be assessed on the service user's monthly bill on a ballot question, the service provider's bill must state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on [date of voter approval]. This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call [appropriate telephone number]."

Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting must be made of the approved county 9-1-1 charge.

Except as otherwise provided, the county 9-1-1 charge must be paid quarterly directly to the county and distributed by the county to the primary PSAPs by one of the following methods:

- As provided in the final 9-1-1 service plan.
- If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.
- If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

The bill specifies that the county 9-1-1 charge provisions do not preclude the distribution of funding to secondary PSAPs if the primary PSAPs within the emergency 9-1-1 district determine that the distribution is the most effective method for dispatching fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

The county annually may adjust the 9-1-1 charge to be effective July 1. The county must notify the Committee by April 1 of each year of any change.

If a county has multiple emergency response districts, the county 9-1-1 charge collected must be distributed in proportion to the population within the emergency 9-1-1 district.

The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections. The county 9-1-1 charge must be listed separately on the customer's bill and state the means by which the charge was approved.

Information submitted by a service supplier to a county is exempt from the Freedom of Information Act and may not be released by the county without the service supplier's consent.

If a service user has multiple access points or access lines, the county 9-1-1 charge must be imposed separately on each of the first 10 access points or lines and then once for each 10 access points or lines per billed account.

Review & Approval of County Surcharge

By February 15, 2008, each county that decided to assess a surcharge, with the assistance of the State 9-1-1 Office, had to submit to the PSC all of the following:

- The initial county 9-1-1 surcharge for each 9-1-1 service district to be effective July 1, 2008.
- The estimated amount of revenue to be generated in each 9-1-1 service district for 2007.
- Based on the initial surcharge, the estimated amount of revenue to be generated for 2008.

If the amount to be generated in 2008 exceeded the amount received in 2007 plus 2.7% of the 2007 revenue, the PSC, in consultation with the Committee, had to review and approve or disapprove the county surcharge. If the PSC did not act by March 17, 2008, the county surcharge was deemed approved. If the surcharge was rejected, it had to be adjusted to ensure that the revenue generated did not exceed the amount allowed under the bill. In reviewing the surcharge, the PSC had to consider the allowable and disallowable costs as approved by the Committee on June 21, 2005.

CMRS Emergency 9-1-1 Charge

The bill requires each CMRS supplier or reseller to collect an emergency 9-1-1 charge from each of its prepaid customers. The Committee must establish the amount of the charge annually by combining the amounts determined under the following two provisions.

First, the CMRS supplier or reseller has a one-time option of selecting one of the following methods of determining the portion of the charge that represents the State 9-1-1 amount:

- By dividing the total earned prepaid revenue received by the CMRS supplier or reseller within the monthly 9-1-1 reporting period by \$50 and then multiplying that number by the amount of the State 9-1-1 charge established as described above.
- By multiplying the amount of the State 9-1-1 charge as established for each active prepaid account of the CMRS supplier or reseller.

Second, the Committee annually must review and establish the portion of the emergency 9-1-1 charge that represents the county 9-1-1 charge amount. The charge must be based on the weighted average of all county 9-1-1 charges imposed statewide.

The CMRS must deposit the amount collected for the emergency 9-1-1 charge into the Emergency 9-1-1 Fund to be distributed as provided in the Act.

These provisions took effect on July 1, 2008.

(Under the bill, "active prepaid accounts" means a customer who has recharged or replenished his or her account at least once during the billing period or calendar month or has a sufficient positive balance at the end of each month equal to or greater than the amount of the emergency 9-1-1 charge.

"CMRS reseller" means a provider that purchases telecommunication services from another telecommunication service provider and then resells, uses a component part of, or integrates the purchased services into a mobile telecommunication service.

"Earned prepaid revenue" means all new revenue that has been generated from prepaid service accounts since the close of the last billing period or calendar month.

"Prepaid customer" means a CMRS subscriber who pays in full prospectively for the service and has a Michigan telephone number or a Michigan identification number for service, or a service for exclusive use in an automotive vehicle and whose place of primary use is within Michigan.)

Senate Bill 411

Alteration in Charge

Previously, after collection of the emergency telephone charge within a particular 9-1-1 service district began, a service supplier providing or designated to provide 9-1-1 service under the Act could not alter the emergency telephone charge collected from service users within the service district except as provided in the Act and described below.

Subject to limitations, if additions or withdrawals of PSAPs or secondary PSAPs were made to the 9-1-1 service within a 9-1-1 service district, or if a public agency was added to or withdrew from a 9-1-1 service district, the emergency telephone charge had to be increased or decreased in an amount such that the total emergency telephone charge to be collected in each billing period equaled the total cost of providing 9-1-1 service within the service district or within the modified 9-1-1 service district based on the service supplier's rates and charges.

The bill deleted this language. Instead, a service supplier providing or designated to

provide 9-1-1 service under the Act may not alter the State or county 9-1-1 charge collected from service users within the 9-1-1 service district except as provided in the Act.

9-1-1 Call Location Information

The bill requires the PSC to consult with and consider the recommendations of the Emergency 9-1-1 Service Committee in the promulgation of rules requiring each service user with a multiline telephone system to install by December 31, 2011, the necessary equipment and software to provide specific location information of a 9-1-1 call. This provision applies to multiline telephone systems regardless of the system technology.

Annual Accounting

Previously, except as otherwise provided, within specified time frames, a service supplier providing 9-1-1 service had to make an annual accounting to the 9-1-1 service district of the total emergency telephone charges collected during the preceding calendar year. If an annual accounting disclosed that the total emergency telephone technical charges collected during that year exceeded the total cost of installing and providing 9-1-1 service within the service district according to the service supplier's rates and charges, the supplier had to adjust the technical charge collected from service users in the district as prescribed by the Act.

If the annual accounting disclosed that the total emergency telephone charges collected during the calendar year were less than the total cost of installing and providing 9-1-1 service within the service district according to the costs and rates of the service supplier, the supplier had to collect an additional charge from service users in the district as prescribed by the Act.

The bill deleted these provisions. (Public Act 379 reenacted similar provisions.)

Auditing

Previously, except as otherwise provided, the emergency telephone operational charge funds collected and spent under the Act had to be used exclusively for the operation of the 9-1-1 system. Under the bill, instead, the funds collected and spent under the Act

must be spent exclusively for 9-1-1 services and in compliance with the rules promulgated under the Act.

The Act requires each PSAP or secondary PSAP to assure that fund accounting, auditing, monitoring, and evaluation procedures are provided. Under the bill, all of the procedures must be provided as required by the Act and the rules promulgated under it. The bill deleted a requirement that the accounting procedures provide for accurate and timely recording of receipt and disbursement of funds by source.

The Act requires an annual audit to be conducted by an independent auditor using generally accepted accounting principles. Previously, an increase in 9-1-1 operational funds could not be authorized or spent for the next fiscal year unless an annual audit had been performed for the previous fiscal year and expenditures were in compliance with the Act. Under the bill, an increase in the charges allowed under the Act may not be authorized or spent for the next fiscal year unless, according to the most recently completed annual audit, expenditures are in compliance with the Act.

The bill deleted a requirement that a PSAP continue to operate at the same funding level as the previous fiscal year until an audit was performed. The bill also deleted a provision prohibiting the recurring emergency telephone operational charge from being spent if an audit had not been performed as required within 120 days at the end of the fiscal year.

Under the bill, the receipt of 9-1-1 funds depends on compliance with the standards established by the PSC in the promulgation of rules.

Emergency 9-1-1 Fund

The Act established the CMRS Emergency Telephone Fund within the State Treasury. The bill refers to the Emergency 9-1-1 Fund, rather than the CMRS Emergency Telephone Fund, and deleted a requirement that the Fund provide money to implement the Wireless Emergency Service Order and the Act. Money in the CMRS Emergency Telephone Fund on the bill's effective date had to be deposited into the Emergency 9-1-1 Fund and spent as provided by the Act.

Previously, the Department of Treasury could spend Fund money, upon appropriation, only as provided in the Act. The bill deleted the reference to appropriation.

(The Wireless Emergency Service Order requires local exchange carriers to provide all customers with enhanced 9-1-1 (E-911) service, which 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.)

State 9-1-1 Service Charge

Previously, except as otherwise provided, a CMRS supplier or reseller had to include a service charge of 52 cents per month for each CMRS connection with a Michigan billing address. The CMRS supplier or reseller had to list the service charge as a separate line item on each bill as the "operational 9-1-1 charge".

The bill deleted these provisions. Instead, except as otherwise provided, effective July 1, 2008, a service supplier must include a monthly State 9-1-1 service charge (as determined under Senate Bill 410). The service supplier must list the State 9-1-1 service charge on each bill as a separate line item called the "state 9-1-1 charge".

The bill allows each service supplier to retain 2% of the State 9-1-1 charge collected under the Act to cover the supplier's costs for billing and collection.

CMRS Fund Reimbursement

Previously, the Act required a CMRS supplier to submit an invoice to the subcommittee (described below) for reimbursement from the CMRS Emergency Telephone Fund for costs incurred in implementing the Wireless

Emergency Service Order and the Act. The subcommittee had to review the invoice and make a recommendation to the Committee for its approval or denial. The Committee could approve an invoice only if it was for costs directly related to the provision and installation of equipment that implemented the Order and the Act. The Committee had to authorize payment in accordance with the subcommittee's recommendations. The bill deleted these provisions.

The bill also deleted provisions that required all CMRS suppliers to notify the Committee by July 1, 2004, whether they would seek reimbursement from the Fund for costs incurred before December 31, 2005, in implementing the Order and the Act. If a CMRS supplier elected to seek reimbursement, it had to continue imposing the 52-cent monthly charge until December 31, 2005, and then impose a monthly service charge of 29 cents. A CMRS supplier that notified the Committee that it would not seek reimbursement had to impose a charge of 29 cents per month and could not seek reimbursement for implementation costs after the date of its notice.

Previously, the Michigan Department of State Police (MSP) could receive funds from the CMRS Emergency Telephone Fund for costs to administer the Act or to operate a regional dispatch center that receives and dispatches 9-1-1 calls. The funded costs could not exceed one-half of one cent of the monthly service charge or, if the MSP established the position of E 9-1-1 coordinator, one cent of the monthly service charge or, if the MSP established the position of E 9-1-1 coordinator, one cent of the monthly service charge. The bill deleted these provisions.

Emergency 9-1-1 Fund Distribution

Previously, the Act required all money collected and deposited in the CMRS Emergency Telephone Fund to be distributed as follows:

- Except as otherwise provided, 10 cents of each monthly service charge had to be disbursed equally to each county that had in place a final 9-1-1 plan that included implementation of the Wireless Emergency Service Order and the Act.
- Except as otherwise provided, 15 cents of each monthly service charge had to be

disbursed on a per capita basis to each county that had in place a final 9-1-1 plan that included implementation of the Order and the Act.

- One and one-half cents of each monthly service charge had to be available to PSAPs for training personnel assigned to 9-1-1 centers.
- To CMRSs for reimbursement of the costs of implementing the Order and the Act; to the MSP for administrative costs and the costs to operate a regional dispatch center; and to local exchange providers for costs related to the Order.

The bill instead requires money collected and deposited in the Emergency 9-1-1 Fund, except as otherwise provided, to be disbursed as follows:

- 82.5% disbursed to each county with a final 9-1-1 plan in place, with 40% of that percentage distributed quarterly on an equal basis to each county, and 60% distributed quarterly based on a population per capita basis.
- 7.75% to reimburse local exchange providers for the costs related to wireless emergency service.
- 6.0% made available to PSAPs for training personnel assigned to 9-1-1 centers.
- 1.88% credited to the MSP to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 1.87% credited to the MSP for costs to administer the Act and to maintain the office of the State 9-1-1 coordinator.
- For FY 2007-08 only, up to \$500,000 to the MSP to study the feasibility of an IP-based 9-1-1 system in Michigan.

Any cost reimbursement to local exchange providers may not include a cost that is not related to wireless emergency service. A local exchange provider may submit an invoice to the PSC for reimbursement from the Fund for allowed costs. Within 45 days after the date the invoice is submitted, the PSC must approve the invoice in whole or in part, or deny it.

(Senate Bill 410 defines "common network costs" as the costs associated with the common network required to deliver a 9-1-1 call with automatic location identification and automatic number identification from a selective router to the proper PSAP and the costs associated with the 9-1-1 database and 9-1-1 distribution system of the primary

9-1-1 service supplier identified in a county 9-1-1 plan. "Common network" means the elements of a service supplier's network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.)

Money received by a county may be used only for 9-1-1 services as allowed in the Act. The bill retained a requirement that money spent for a purpose considered unnecessary or unreasonable by the Committee or the Auditor General be repaid to the Fund. The bill also requires a breakdown of the MSP's costs funded under these provisions to be included in the annual report required under the Act.

The bill requires the PSC to consult with and consider the recommendations of the Committee in the promulgation of rules establishing training standards for 9-1-1 system personnel.

Under the bill, money must be disbursed biannually to an eligible public safety agency or county for the training of PSAP personnel through courses certified by the Committee only to provide basic 9-1-1 operations training, or to provide in-service training to employees engaged in 9-1-1 service. Previously, the Act required this disbursement but not on a biannual basis, and the courses had to be certified by the Michigan Commission on Law Enforcement Standards.

Previously, if a county with a final 9-1-1 plan in place did not accept 9-1-1 calls through the direct dispatch method, relay method, or transfer method from a CMRS user, the revenue available to the county had to be disbursed to the public agency or county responsible for accepting and responding to those calls. The bill deleted this provision.

The bill deleted provisions under which a county had to be compliant with the Wireless Emergency Service Order and the Act by particular deadlines in order to receive disbursements.

The bill also deleted a provision allowing each CMRS supplier or reseller who billed a customer to retain one-half of one cent of each service charge billed under the Act to cover the costs of billing and collection as the only reimbursement from this charge for such costs.

The Act required the PSC, following a contested case, to issue an order by June 29, 2004, establishing the costs that a local exchange provider could recover in terms of the costs related to the Wireless Emergency Service Order. A local exchange provider could submit an invoice to the PSC for reimbursement from the CMRS Emergency Telephone Fund for costs incurred that were allowed under the Commission order. The bill deleted these provisions.

The bill also deleted provisions specifying that a CMRS supplier or reseller was not liable for an uncollected service charge for which the supplier or reseller billed the CMRS user; requiring a CMRS supplier or reseller to credit a partial payment in a particular order of priority; providing for the billing of any uncollected portion of the service charge; and specifying that the service charge a CMRS user paid was not subject to a State or local tax.

In addition, the bill deleted requirements that the MSP annually prepare a prioritized list of projects that it recommended for funding, that the Legislature annually review and approve projects by law, and that the MSP charge a reasonable fee for CMRS suppliers' use of infrastructure or equipment.

The bill requires the PSC to consult with and consider the recommendations of the Committee in the promulgation of rules establishing the standards for the receipt and expenditure of 9-1-1 funds under the Act. Receipt of the funds is dependent on compliance with the standards established under this provision.

Annual Committee Report

The Act required the Committee to conduct and complete a study and make a report by August 30 of each year on the 52-cent service system charge.

The bill requires the Committee, instead, to report by August 1 of each year on the 9-1-1 system in Michigan and the State and county 9-1-1 charges required and distributed under the Act. The report must include at least all of the following:

-- The extent of emergency 9-1-1 service implementation in Michigan.

- The actual 9-1-1 services costs incurred by PSAPs and counties.
- The required State 9-1-1 charge and a recommendation of any changes in its amount or the distribution percentages of the Fund.
- A description of any commercial applications developed as a result of implementing the Act.
- The State, county, and CMRS emergency 9-1-1 charges and a detailed record of expenditures by each county relating to the Act.

(This information is similar to that required in the previous report.)

As previously required, the report must be delivered to the Secretary of the Senate, the Clerk of the House of Representatives, and the standing committees of the Senate and House having jurisdiction over issues pertaining to communication technology. The bill deleted a requirement that the Legislature, upon receiving the report, consider its findings and determine whether an adjustment to the fee was necessary.

Promulgation of Rules

The bill allows the PSC to promulgate rules to establish any of the following:

- Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in this State.
- Standards for the training of PSAP personnel.
- Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds received by counties.
- The requirements for multiline telephone systems.
- The penalties and remedies for violations of the Act and the rules promulgated under it.

The rules do not apply to service suppliers.

The PSC must consult with and consider the recommendations of the Committee in the promulgation of rules. The PSC's rule-making authority is limited to that expressly granted in these provisions.

Technical Assistance; Dispute Resolution

The bill requires the Committee, upon request by a service supplier, county, public

agency, or public service agency, to provide, to the extent possible, technical assistance regarding the formulation and/or implementation of a 9-1-1 service plan and assistance in resolving a dispute between or among a service supplier, county, public agency, or public safety agency regarding their respective rights and duties under the Act. Previously, the PSC also was subject to this requirement, which excluded a CMRS.

Previously, except for a CMRS supplier, if a service supplier, county public agency, and/or public service agency had a dispute with another arising from the formulation and/or implementation of a 9-1-1 service plan, it had to request assistance from the PSC and the Committee in resolving the dispute. Upon the request of a CMRS supplier, county, public agency, or public service agency, the Committee, to the extent possible, had to provide technical assistance in formulating and implementing a 9-1-1 service plan. The Committee also had to assist in resolving a dispute between or among a CMRS supplier, county, public agency, or public service agency regarding their rights and duties under the Act. The bill deleted all of these requirements.

The bill requires the Committee to develop a voluntary informal dispute resolution process that any party may use in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this State.

Improper Use of 9-1-1 Service

The bill prohibits a person from using an emergency 9-1-1 service for any reason other than to call for an emergency response service from a primary PSAP. This prohibition previously referred to an emergency telephone service or emergency CMRS, rather than an emergency 9-1-1 service.

Previously, a person who knowingly violated or attempted to violate this prohibition was guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$1,000. A violator who had one or more prior convictions was guilty of a felony punishable by imprisonment for up to two years and/or a maximum fine of \$2,000. Under the bill, the misdemeanor is punishable by imprisonment for up to 180 days and/or a maximum fine of \$5,000. The

felony is punishable by imprisonment for up to two years and/or a maximum fine of \$10,000.

Emergency 9-1-1 Service Committee

The Act established the Emergency Telephone Service Committee within the MSP to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. The bill refers to the Emergency 9-1-1 Service Committee, and specifies that the Committee has only the authority and duties granted to it under the Act.

The Committee's previous responsibilities included performing duties as necessary to promote successful development, implementation, and operation of 9-1-1 systems across Michigan. Under the bill, the Committee instead has to perform all duties required under the Act relating to the development, implementation, operation, and funding of 9-1-1 systems in Michigan. Additionally, the bill requires the Committee to provide notice to service suppliers of any changes in the State or county 9-1-1 charge.

The Act specifies that the Committee is subject to the Freedom of Information Act. Under the bill, this provision applies except as otherwise provided under the Act.

Repealed Sections

The bill repealed Sections 201a, 201b, 306, 410, 411, 506, and 711 of the Act. Section 201a allowed a county or group of counties to create a universal emergency number service system under the Act. Section 201b allowed four or more cities within a county with a population of at least 2.0 million to create such a system, with the approval of the county board of commissioners. Section 306 prescribed procedures by which a public agency could opt to be excluded from a 9-1-1 service district.

Section 410 required the Emergency Telephone Service Committee to appoint a subcommittee to review expenditures from the CMRS Emergency Telephone Fund, and prescribed the subcommittee's membership and responsibilities.

Under Section 411, a CMRS supplier could use money received from the CMRS Emergency Telephone Fund for monthly recurring costs, start-up costs, and nonrecurring costs associated with installation, service, software, and hardware necessary to comply with the Wireless Emergency Service Order and the Act.

Under Section 506, a service supplier had to cease 9-1-1 service in the area of a public agency withdrawing from the service district. The service supplier had to continue to collect the emergency telephone charge from all service users within the area of the withdrawing public agency who continued to have 9-1-1 service, but could not collect the charge from users who did not continue to have 9-1-1 service.

Section 711 defined "committee" as the Emergency Telephone Service Committee.

Sunset

Previously, the Act was set to expire on December 31, 2007. The bill delayed the sunset until February 28, 2009. (Public Act 379 subsequently delayed the sunset until December 31, 2014.)

MCL 484.1101 et al. (S.B. 410)
484.1402 et al. (S.B. 411)

BACKGROUND

On November 9, 2006, the Emergency Telephone Service Committee submitted to the Legislature a report containing six recommendations. These included a recommendation for the creation of a two-tiered operational surcharge system that would apply equally to all technologies having access, or the ability to gain access, to the 9-1-1 system, including traditional landline telephone services, wireless services, and VOIP 9-1-1 services. The first tier would consist of a statewide operational surcharge of between 20 and 30 cents collected through the State Treasury to fund baseline funding for counties, dispatcher training, the State 9-1-1 Office, and tier one billing and collection. The second tier would consist of a locally determined county-based operational surcharge to fund local 9-1-1 operations. The local surcharge could not exceed the amount necessary to operate the 9-1-1 system.

Noting that each PSAP previously was responsible for establishing its own dispatcher training standards and programs, the report included a recommendation that the Committee be authorized to promulgate rules to approve training courses funded through the statewide surcharge, and to develop, implement, and administer dispatcher training standards.

The report's recommendation regarding the response time of 9-1-1 personnel was that the Committee be granted the rule promulgation authority necessary to set and enforce identified standards for PSAP operations and county certification of compliance with the standards for receipt of 9-1-1 funds.

The report also suggested that \$500,000 should be appropriated from the CMRS Fund for an independent study of the feasibility of an IP-based 9-1-1 system in Michigan. Additionally, the report called for the designation of \$10.0 million for an initial capital outlay for an IP-based 9-1-1 system in Michigan.

To improve the time of responding to 9-1-1 calls made from a multiline telephone system (MLTS), the report recommended that location information for such calls be legislatively mandated. Currently, 9-1-1 calls made from these systems do not display the caller's precise location to the dispatcher, but instead display the location of the system's switch equipment or a primary building on the MLTS. The report stated that the MLTS requirements should require information providing the building and floor of the caller or an adequate alternative internal method to provide location information for public safety responders.

The report also included a recommendation for a more efficient process to amend a county 9-1-1 plan. Previously, if a county plan was to be changed, it had to be amended through a process that evidently could be costly and time-consuming. Thus, plans were updated only intermittently and sometimes contained obsolete references. The report proposed to allow limited changes to county 9-1-1 plans by the recognition of administrative findings, made by a resolution of the county commission, as addenda to the plans. The administrative findings would include changes in PSAP premises equipment, changes in public

safety departments, and changes in the amount of any 9-1-1 surcharges collected by the county.

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

The 9-1-1 system constitutes a vital service for Michigan residents, and a stable funding source is essential. By replacing the previous funding system with the two-tiered system under Senate Bill 410 and extending the charge to all communication devices with 9-1-1 capabilities, the bills ensure that the system is reliable and equitably funded. In recent years, cellphones have grown to outnumber landlines in Michigan, and the use of VOIP service is growing as well. Under the previous funding structure, landline users shouldered a disproportionate share of the 9-1-1 funding burden.

With regard to the State 9-1-1 charge, the bills create parity among service users in the collection of the charge and also take into account that different local 9-1-1 systems are operated differently and have different funding needs. Of the money distributed to counties, 40% will be allocated from the Fund on an equal basis, and 60% will be allocated based on population.

Additionally, the bills establish a system with the necessary checks and balances to ensure that money collected for 9-1-1 operations is used only for authorized purposes (i.e., those directly related to receiving and processing 9-1-1 calls and dispatching responders).

Response: While the bills will result in a long-term, more equitable funding system than was in place previously, it would be more appropriate to support the 9-1-1 network as other core government services are supported--through local units' general funds and property tax millages.

Also, the county 9-1-1 charge might be excessive for cellphone customers whose plans include a primary line and several additional lines for family members. Previously, counties could impose a surcharge of up to \$4. Under Senate Bill 410, family share plan customers must pay the charge for each line on the account.

This could add up to a significant amount, especially since the bill does not specify how the county charge will be set or restrict the amount that a county may assess.

While cellphone customers previously were subject to a 52-cent State 9-1-1 fee, they were not subject to a county fee. Under Senate Bill 410, cellphone customers are subject to the county fee. Administering this fee at the local level might be difficult and result in uncertainty as to whether the money collected is being used solely to support 9-1-1 operations. There could be more accountability in the collection and disbursement of the county fee if the process for administering the previous statewide wireless fee were used as a model.

Supporting Argument

Previously, there were no statewide standards for the training of 9-1-1 personnel. Authorizing the Committee to establish such standards will ensure that dispatchers are able to meet the needs of residents, and that basic service is the same across the entire State.

Opposing Argument

It will be difficult for CMRS suppliers to comply with the requirement under Senate Bill 410 to collect a 9-1-1 charge from prepaid cellphone customers. Usually, a prepaid customer purchases a cellphone through a retail store, rather than directly from the supplier, in addition to purchasing a phone card with a designated number of minutes in order to make the phone operational. The prepaid supplier and the customer typically have no billing relationship. Furthermore, charging the fee on a monthly basis is not practical because customers purchase cards with varying amounts of calling time and do not use up their minutes at the same rate. The 9-1-1 charge cannot be built into the price of the phone card because prepaid suppliers generally offer nationwide cards that are not specific to the state in which they are sold.

While prepaid customers certainly should pay for access to 9-1-1 services, the two methods prescribed by the bill are not feasible. In other states where similar mechanisms have been established, the prepaid provider, rather than the customer, often ends up paying the fee. In addition to the methods specified in the bill, the

Committee's report identified two other possible ways to collect the charge: collection by the retailer at the point of sale, or another method agreed upon by the prepaid provider and the Committee. One of those options might be more practical, and could be more effective in ensuring that customers do not avoid paying the charge.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills continue, but amend, a charge-based funding mechanism for 9-1-1 service in the State that otherwise would have sunsetted on December 31, 2007. Retaining the funding mechanism will generate charge-based revenue of approximately \$20.9 million to fund costs related 9-1-1 service in the State.

Previously, 29 cents was charged monthly on each cell phone bill in the State. The revenue from this surcharge was distributed by the State in the following way: 25 cents to counties, one cent to the Michigan State Police, one and one-half cents for training, one-half cent for providers for billing costs, and one cent to landline network providers. This surcharge brought in approximately \$20.0 million annually, and other provisions in the statute allowing technical charges for communication companies added approximately \$8.4 million.

The bills changed the 9-1-1 charge from a 29-cent surcharge on cell phone bills (covering 6.6 million phone bills) to 19 cents on each communication device (landline and cell phones and others) that have access to 9-1-1 services (approximately 12.3 million actual devices; 9.3 million of which will be charged under the bills). The new surcharge will generate approximately \$20.9 million. After service suppliers retain 2% of the State 9-1-1 charge for billing and collection, the State will distribute approximately \$20.5 million as follows (fiscally similar to amounts distributed under the former law): 82.5% to counties, distributed on a 40% equal basis and 60% by population; 7.75% to fund common network costs; 6% to 9-1-1 training programs; and 3.75% to fund the State 9-1-1 office and services.

As under previous law, the bills allow counties to apply local surcharges to fund 9-1-1 services, but allow them to apply this

surcharge to all communication devices that have access to 9-1-1, as the new State surcharge is allowed to do.

The bills also direct \$500,000 from the \$18.8 million balance in the CMRS Fund (unspent funds from cost recovery surcharges for wireless providers) to be used for a feasibility study to determine whether it is advisable for the State to move to an IP (internet protocol) 9-1-1 system.

Fiscal Analyst: Bruce Baker

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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.