

IP-BASED 9-1-1 SERVICE PROVIDERS, 9-1-1 SERVICE CHARGES, AND EMERGENCY 9-1-1 FUND DISTRIBUTIONS

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Senate Bill 400 as passed by the Senate

Sponsor: Sen. Rick Jones

House Committee: Communications and Technology

Senate Committee: Energy and Technology

Complete to 1-16-18

SUMMARY:

Senate Bill 400 would amend the Emergency 9-1-1 Service Enabling Act to do the following:

- Include IP-based 9-1-1 service providers.
- Adjust the state 9-1-1 service charge, county 9-1-1 charge, and prepaid wireless 9-1-1 surcharge.
- Adjust the distribution percentages of the Emergency 9-1-1 Fund to counties, local exchange providers, primary public safety answering points (PSAPs), and the Department of State Police.
- Create a mechanism to report service suppliers that fail to bill for state or county 9-1-1 service charges and allow a civil action for noncompliance.
- Establish recurring and nonrecurring costs proceedings.

9-1-1 Service Plan

Under current law, after a county board of commissioners adopts a final 9-1-1 service plan, the board can by resolution make minor amendments to the plan for any of the following:

- Changes in PSAP premises equipment.
- Changes in participating public safety agencies within a 9-1-1 service district.
- Changes in 9-1-1 charges collected by the county.

The bill would allow a county board of commissioners to amend a service plan for changes in 9-1-1 service providers to include IP-based 9-1-1 service providers that meet the next generation 9-1-1 standards set by the National Emergency Number Association.

The bill would define “***IP-based 9-1-1 service provider***” to mean the provider of a standards-based digital (internet protocol) secure redundant managed 9-1-1 transport network used for the routing and delivery of 9-1-1 connectivity with location information from a party requesting emergency services to a PSAP. An IP-based 9-1-1 network could interface with other networks and transport other emergency services applications. An IP-based 9-1-1 network may be constructed from a mix of dedicated and shared facilities or networks, and may be interconnected at local, regional, state, federal, national, and international levels to form an IP-based inter-network or intra-network of 9-1-1 connectivity.

9-1-1 Service Charges

Currently, each service supplier within a 9-1-1 service district bills for and collects a state 9-1-1 charge from all service users (except prepaid wireless users) within the service district.

The charge is currently 19 cents per communications device per month.¹ SB 400 would increase this to 25 cents, effective January 1, 2018.

In addition, a county board of commissioners may by resolution assess a county 9-1-1 charge to service users of up to 42 cents per month. SB 400 would increase this to 48 cents. (A county could still charge up to \$3.00 if the charge is approved by its voters.)

For prepaid wireless users, a seller must collect a 9-1-1 surcharge from a consumer for each retail transaction occurring in Michigan. The current amount of the surcharge is 1.92% per retail transaction. SB 400 would increase this to 5% per retail transaction. This would include prepaid wireless services sold with 1 or more products or services for a single, nonitemized price; the seller could collect 5% on the entire nonitemized price.

Emergency 9-1-1 Fund

The Act established the emergency 9-1-1 fund within the state treasury. Money in the fund (mostly from state 9-1-1 service charges and prepaid surcharges) is distributed to counties, local exchange providers, primary public safety answering points (PSAPs), and the Department of State Police. SB 400 would adjust the distribution of the fund so that up to \$37.0 million in the fund annually would be distributed as follows:

- To each county that has a final 9-1-1 plan in place, 65% (a *decrease* from the current 82.5% distribution).
- To local exchange providers for costs related to wireless emergency service, 25.56% (an *increase* from the current 7.75%). However, the bill also adds IP-based 9-1-1 service providers to this distribution for costs related to IP-based 9-1-1 emergency service, as long as they meet the Next Generation 9-1-1 standards set by the National Emergency Number Association. A local exchange provider or IP-based 9-1-1 service provider may submit an invoice to the commission for the distribution on a quarterly basis.
- To PSAPs for training personnel assigned to 9-1-1 centers, to 5.5% (a *decrease* from the current 6%).
- To the Department of State Police to operate a regional dispatch center that receives and dispatches 9-1-1 calls, 1.5% (a *decrease* from the current 1.88%).
- To the Department of State Police to administer this act and to maintain the office of the state 9-1-1 coordinator, 2.44% (an *increase* from the current 1.87%).

Money in the fund in excess of \$37.0 million would be reserved for approved costs described in the second bulleted item above (local exchange and IP-based providers).

The Auditor General currently audits the fund at least once per year. SB 400 would change this requirement to once every 2 years.

Funds collected under the Act are expended exclusively for 9-1-1 services. SB 400 would require counties, PSAPs, or secondary PSAPs that receive money under the Act to assure that accounting, auditing, monitoring, and evaluation procedures are provided. (The Act currently requires this only of PSAPs and secondary PSAPs.)

¹ Order of the Public Service Commission, entered April 16, 2009 (Case No. U-15552).
http://www.michigan.gov/documents/mpsc/u-15552_04-16-2009_562004_7.pdf

Noncompliance

Each **service supplier** (a person providing a communication service to a service user in Michigan) is solely responsible for billing the state and county 9-1-1 charges and transmitting the money collected to the appropriate entity. The bill would add a mechanism to report service suppliers that do not bill and collect the charges, which would include the following procedures:

- If an emergency 9-1-1 service committee, county, or 9-1-1 service district is aware that a service supplier, CMRS supplier, reseller, or retailer of a prepaid wireless telecommunications service failed to report, charge, collect, or transmit the 9-1-1 charges, then that entity would be required to notify the Michigan Public Service Commission (MPSC) and include any evidentiary documents to support its claim of noncompliance.
- The MPSC would investigate the claim and attempt to resolve the complaint.
- The MPSC could refer the complaint to the Attorney General, who could commence a civil action against the service supplier, CMRS supplier, reseller, or retailer of a prepaid wireless telecommunications service for appropriate relief. The action could be brought in the Ingham County Circuit Court or the circuit court in a county where the defendant resides or is doing business.
- Apart from the civil suit commenced by the Attorney General, a county could also take action, as authorized by law, against an entity that fails to remit the county 9-1-1 charge.

Recurring and nonrecurring costs proceedings

Senate Bill 400 would add that, within 60 days of its effective date, the MPSC would have to commence a proceeding to determine the recurring and nonrecurring cost categories for all IP-based 9-1-1 service providers. The MPSC would have to allow any interested person to intervene in a proceeding. Within 180 days after a proceeding is commenced, the MPSC would issue a final order adopting the recurring and nonrecurring cost categories for all IP-based 9-1-1 service providers considered just and reasonable.

A cost study may be submitted by an IP-based 9-1-1 service provider after the MPSC completes the proceeding. If submitted, the MPSC would, within 45 days of receiving an invoice, only approve those costs in the invoice that are both of the following:

- Consistent with the recurring and nonrecurring cost categories for IP-based service providers approved by the MPSC.
- The result of a competitively bid process as confirmed by supporting documentation.

An IP-based 9-1-1 service provider would have to file an updated cost study no later than 5 years after the filing of an initial cost study, and every 5 years thereafter.

Finally, Senate Bill 400 would make editorial changes for consistency and clarity, to adjust population thresholds to reflect current census data, and to remove outdated language.

MCL 484.1102 et al.

FISCAL IMPACT:

Senate Bill 400 would increase revenues for the state Emergency 9-1-1 Fund, and could increase revenues to local Public Safety Answering Points (PSAPs) by increasing the monthly surcharge paid by consumers and allowing local units of government to increase local surcharges to a higher statutorily designated cap.

Currently, a statutorily designated state 9-1-1 surcharge of \$0.19 per month, per consumer, is collected by telephone service providers. The bill would increase the monthly surcharge by \$0.06, totaling \$0.25 per month, per consumer. Additionally, the bill would increase the statutorily designated state 9-1-1 surcharge on prepaid wireless services—collected by the seller—from 1.92% to 5.0%, per retail transaction. These surcharges are remitted monthly to the Department of Treasury to be deposited into the state Emergency 9-1-1 Fund.

According to the State 9-1-1 Committee's 2017 annual report to the Legislature, during the calendar year beginning January 1, 2017 and ending December 31, 2017, total interest earnings and remittances to the Department of Treasury for state 9-1-1 surcharges totaled \$28.6 million. Table I details the revenue increases based upon the Committee's 2017 report to the Legislature and adjusted to incorporate the changes made in Senate Bill 400 substitute S-2.

Table I	<u>Current Estimated Revenues</u>	<u>Estimated Increase</u>	<u>Total</u>
Prepaid 2.27% Increase	\$8.6 million	<i>\$13.8 million</i>	\$22.4 million
Postpaid \$0.06 Increase	\$20.0 million	<i>\$6.4 million</i>	\$26.4 million
Total	\$28.6 million	<i>\$20.2 million</i>	\$48.8 million

The bill would allow local units of government (county boards of commissioners) to enact resolutions to increase local 9-1-1 surcharges from the previous statutory cap of \$0.42 per month up to \$0.48 per month. Local units of government would still be able to charge between \$0.49 and \$3.00 per month for 9-1-1 surcharges via the approval of voters within the county.

Senate Bill 400 could also result in indeterminate, though nominal, costs for the Office of the Attorney General and local units of government. The bill includes provisions that would allow the Attorney General, as well counties and local 9-1-1 service districts, to bring civil suits against service suppliers, CMRS suppliers, resellers, and retailers for appropriate relief for failure to report, charge, collect, and remit state (AG) or local (counties and 9-1-1 service districts) 9-1-1 surcharges. Any costs incurred would be a result of bringing suit against the aforementioned entities. Additionally, the bill would result in indeterminate, though nominal, savings for the Office of the Inspector General by changing the statutorily required audit period of the state Emergency 9-1-1 Fund from annually to biennially.

Lastly, Senate Bill 400 would alter the annual statutorily designated distributions of up to \$37.0 million from the state Emergency 9-1-1 Fund to various state and local units of government. Any funds in the state Emergency 9-1-1 Fund available after the distribution of \$37.0 million would be distributed to support grants/costs of implementing IP-based 9-1-1 projects (i.e., what is commonly referred to as Next Gen 9-1-1). These funds would be distributed to local exchange providers via grants for IP-based 9-1-1 projects. Table II details the distribution changes included in SB 400, based upon revenue estimates provided by the State 9-1-1 Committee's 2017 report to the Legislature, which were adjusted to incorporate the changes provided in substitute S-2.

Table II	<u>Current</u>	<u>SB 400</u>	<u>Total Revenues</u>
County 9-1-1 Services	82.5%	65%	\$24.1 million
Local Exchange Providers	7.75%	25.56%	\$9.5 million
PSAP Training	6.0%	5.5%	\$2.0 million
State Police Regional 9-1-1	1.88%	1.5%	\$555,000
State Police Admin.	1.87%	2.44%	\$1.0 million
Local Exchange Providers IP-Based 9-1-1 Grants	--	--	\$11.8 million
Total	100.0%	100.0%	\$48.8 million
<i>Note: Totals do not sum exactly due to rounding</i>			

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