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BILL



ANALYSIS

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Senate Bill 400 (as introduced 5-23-17)

Sponsor: Senator Rick Jones

Committee: Energy and Technology

Date Completed: 9-22-17

## **CONTENT**

**The bill would amend the Emergency 9-1-1 Service Enabling Act to do the following:**

- **Increase the prepaid wireless 9-1-1 surcharge for retail transactions from 1.92% to 4.19% per transaction.**
- **Increase the monthly State 9-1-1 charge collected from communication service users from 19 cents to 25 cents.**
- **Increase the 9-1-1 charge that may be assessed by a county board of commissioners by resolution from 42 cents to 55 cents.**
- **Revise the percentages for how money is deposited into the Emergency 9-1-1 Fund, and require money to be available for reimbursement for IP-based 9-1-1 projects and emergency services.**
- **Require the Auditor General to audit the Emergency 9-1-1 Fund at least biennially, instead of at least annually.**
- **Permit the Attorney General, a county, or a 9-1-1 service district to commence a civil action against a service supplier, CMRS supplier, reseller, or retailer for failure to report, charge, collect, and transmit a county 9-1-1 charge.**
- **Allow a county board of commissioners to amend a final 9-1-1 service plan to include IP-based 9-1-1 service providers.**

### Prepaid Wireless 9-1-1 Charge

The Act requires a seller to collect a prepaid wireless 9-1-1 surcharge from a consumer for each retail transaction occurring in the State.

("Seller" means a person who sells prepaid wireless telecommunications service to another person. "Consumer" means a person who purchases such services in a retail transaction. "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.)

The amount of the surcharge must be 1.92% per retail transaction.

Except as otherwise provided, if a prepaid wireless telecommunications service is sold with one or more products or services for a single, nonitemized price, the seller must collect 1.92% on the entire nonitemized price unless the seller elects to do the following:

- Apply the percentage to the dollar amount if the amount of the prepaid wireless service is disclosed to the consumer as a dollar amount.
- Apply the percentage to the portion of the price that is attributable to the prepaid wireless service if the seller can identify the portion by reasonable and verifiable standards from its books and records kept in the regular course of business for other purposes.

The bill would increase the surcharge amount from 1.92% to 4.19%.

#### State 9-1-1 Charge

The Act requires each service supplier (a person providing a communication service to a user in the State) within a 9-1-1 service district to bill and collect a State 9-1-1 charge from all service users, except for users of a prepaid wireless communications service, of the service supplier within the geographical boundaries of the 9-1-1 service district.

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

Currently, the State 9-1-1 charge is 19 cents. The charge must reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this State. Under the bill, the charge would increase from 19 cents to 25 cents.

#### County 9-1-1 Charge

In addition to the State 9-1-1 charge, a county board of commissioners may assess a county 9-1-1 charge to service users, except for users of a prepaid wireless telecommunications service, 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 above methods with a maximum county 9-1-1 charge of \$3 per month.

For a charge assessed by resolution, the bill would increase the amount from 42 cents to 55 cents.

#### Emergency 9-1-1 Fund; IP-Based Providers

The Act created an Emergency 9-1-1 Fund within the State Treasury. Money collected and deposited into the Fund must be distributed as follows:

- 82.5% must be disbursed to each county that has a final 9-1-1 plan in place, with 40% distributed quarterly on an equal basis to each county, and 60% distributed quarterly based on a population per capita basis.
- 7.75% must be available to reimburse local exchange providers for the costs related to wireless emergency service.
- 6.0% must be available to primary public safety answering points (PSAPs) for training personnel assigned to 9-1-1 centers.
- 1.88% must be credited to the Michigan Department of State Police (MSP) to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 1.87% must be credited to the MSP for costs to administer the Act and to maintain the office of the State 9-1-1 coordinator.

The bill, instead, would require annual money in the Fund not exceeding \$37.0 million be distributed as follows:

- 65% would have to be disbursed to each county with a final 9-1-1 plan in place (subject to the current 40%/60% distribution requirement).
- 3.5% would have to be available to reimburse local exchange providers for the costs related to wireless emergency service.
- 5.5% would have to be available to PSAPs for training personnel assigned to 9-1-1 centers.
- 1.5% would have to be credited to the MSP to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 3% would have to be credited to the MSP for costs to administer the Act and to maintain the office of the State 9-1-1 coordinator.

Additionally, the bill would require that 21.5% be available for reimbursement by the Emergency 9-1-1 Service Committee only for the following purposes:

- Grant match for statewide or regional IP-based 9-1-1 projects.
- Invoices submitted by Committee-approved IP-based 9-1-1 service providers for the costs related to IP-based 9-1-1 emergency service.

The bill specifies that an IP-based 9-1-1 service provider that had been approved by the Committee could submit an invoice to the Committee for reimbursement from the Fund for allowed costs. Within 90 days after an invoice was submitted, the Committee would have to approve the invoice in whole or in part, or deny it. Any cost reimbursement allowed would not include a cost that was not related to IP-based 9-1-1 emergency service.

The Committee would have to establish a subcommittee to review invoices submitted by IP-based 9-1-1 service providers and make recommendations to the Committee for approval or denial of payment. The subcommittee would have to remove IP-based 9-1-1 service provider information that was considered confidential or proprietary.

Funds generated by the State 9-1-1 charge in excess of \$37.0 million annually would have to be reserved for distribution Committee-approved costs related to IP-based 9-1-1 emergency service.

("IP-based 9-1-1 service provider" would 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 network could be constructed from a mix of dedicated and shared facilities or networks, and 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.

"Primary 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.)

The Act requires the Auditor General to audit the Fund at least annually. The bill, instead, would require the Auditor General to do so at least biennially.

### Civil Action

Section 403 of the Act provides that each service supplier is solely responsible for the billing of the State and county 9-1-1 charges and transmitting the money collected to the Emergency 9-1-1 Fund and to the counties, as required under the Act.

The bill would permit the Attorney General to commence a civil action on behalf of the Committee against a service supplier, CMRS supplier, reseller, or retailer for appropriate relief

for failure to report, charge, collect, and transmit the State 9-1-1 charge and the prepaid wireless 9-1-1 surcharge. An action could be brought in the Ingham County Circuit Court or the circuit court in a county in which the defendant resided or was doing business. The court would have jurisdiction to restrain the violation and to require compliance with Section 403.

A county or 9-1-1 service district also could commence a civil action against a service supplier, CMRS supplier, reseller, or retailer for appropriate relief for failure to report, charge, collect, and transmit the county 9-1-1 charge. An action could be brought in the circuit court of the county receiving the charge or in a circuit court in a county in which the defendant resided or was doing business. The court would have jurisdiction to restrain the violation and to require compliance with Section 403.

("CMRS" or "commercial mobile radio service" means commercial mobile service regulated under the Communications Act of 1934, and the rules of the Federal Communications Commission (FCC) or provided under the Wireless Emergency Service Order (an order of the FCC issued in 1996). The term includes the following:

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

#### Auditing

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

Each PSAP or secondary PSAP must assure that Fund accounting, auditing, monitoring, and evaluation procedures are provided as required by the Act and rules promulgated under it. Under the bill, this requirement would apply to each county, PSAP, or secondary PSAP that received money under the Act.

#### Emergency 9-1-1 Service System

The Act permits one or more counties to create an emergency 9-1-1 service system. With the approval of the county board of commissioners in a county with a population of 1,800,000 or more, four or more cities may create an emergency 9-1-1 service district. The bill would change the population requirement to 1,650,000 or more.

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

- Changes in PSAP premises equipment.
- 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 limits under the Act.

The bill also would permit the county board of commissioners to make amendments for changes in 9-1-1 service providers to include IP-based 9-1-1 service providers approved by the Committee.

MCL 484.1102 et al.

Legislative Analyst: Stephen Jackson

## **FISCAL IMPACT**

The bill would have a small, but positive fiscal impact on the Michigan Department of State Police, and a positive fiscal impact on local 9-1-1 emergency service providers. The bill would raise two fees charged by communications service providers, and credited to the Emergency 9-1-1 Fund, which is administered by the State Treasury. The first fee is a 19-cent monthly surcharge included on telephone bills; that fee would be raised to 25 cents per month. The second is an increase in the percentage surcharge included on prepaid wireless services from 1.92% to 4.19%. In fiscal year 2015-16, those two fees generated a total of \$20.3 million and \$8.2 million, respectively. Under the bill, those amounts would increase to approximately \$26.6 million and \$18.0 million, respectively, for a total of \$44.6 million.

Additionally, the bill would make a number of changes in how those funds are distributed through statutory formula. Table 1 provides estimates for the impact of the bill on the various programs funded through the Emergency 9-1-1 Fund. The annual sum totals of the estimates were obtained from the MSP, and those totals were then applied to all of the individual programs according to their current statutory percentages and those under the bill. Additionally, the bill would cap the amount sent through the formula to \$37.0 million, with any remaining revenue being credited directly to grants and eligible costs related to internet protocol based 9-1-1 emergency services.

Table 1

Emergency 911 Fund Formula Allocations - Current and Proposed  
(Dollar amounts in millions)

<b>Program/Item</b>	<b>Current Law Pct.</b>	<b>Current Law Dollar Amt.</b>	<b>S.B. 400 Pct.<sup>1</sup></b>	<b>S.B. 400 Dollar Amt.<sup>1</sup></b>
County 9-1-1 Providers	82.5%	\$23.5	65%	\$24.0
Local Exchange Providers (Wireless Emergency Service)	7.75%	\$2.2	3.5%	\$1.3
Public Safety Answering Point Training	6.0%	\$1.7	5.5%	\$2.0
State Police Regional Dispatch	1.88%	\$0.5	1.5%	\$0.6
State Police Administration	1.87%	\$0.5	3.0%	\$1.1
Grants/Costs for Internet Protocol-Based 9-1-1 Projects	N/A	\$0	21.5%	\$15.8
<b>TOTAL</b>	<b>100%</b>	<b>\$28.5</b>	<b>100%</b>	<b>\$44.6<sup>2</sup></b>
<sup>1</sup> The bill would limit the amount put through the formula to \$37.0M; additional funds would be directly credited to the last item in <u>Table 1</u> .				
<sup>2</sup> Totals do not add due to rounding.				

Finally, the bill would allow county commissions, by resolution, to increase county-levied monthly 9-1-1 surcharges from 42 cents per month to 55 cents per month. It is not known how much this would raise as it is unknown at this time how many counties currently levy a county surcharge and of those, how many would opt to increase it.

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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.