

## 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 (reported from committee as H-1)**

**Sponsor: Sen. Rick Jones**

**House Committee: Communications and Technology**

**Senate Committee: Energy and Technology**

**Complete to 2-9-18**

*(Enacted as Public Act 51 of 2018)*

**BRIEF 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 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.
- Require the commission to issue a report to the legislature and governor by December 1, 2020.

**FISCAL IMPACT:** Senate Bill 400 (H-1) 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. (See *Fiscal Information*, below, for further discussion.)

### **THE APPARENT PROBLEM:**

Technology has evolved greatly since the 1960s, except for Michigan's emergency 9-1-1 system. Individuals who place a 9-1-1 call are using technology that has not been updated for nearly 60 years. The bill sponsor believes that as technology evolves, public safety should also evolve. This would include communicating with 9-1-1 dispatchers in real time with the ability to send pictures, videos, and have a GPS location for where the call originated from. Cellphone applications for companies such as Dominoes and Uber have this technology, yet the emergency 9-1-1 does not. First responders would be better equipped to respond to a scene if they had more information before arriving. Additionally, many victims in an emergency situation are disoriented and may not know their exact location. Improvements to the emergency 9-1-1 system could pinpoint a caller's location with GPS technology, and first responders could arrive faster and at the correct location.

## ***THE CONTENT OF THE BILL:***

### **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 primary public safety answering point (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.

***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 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. SB 400 would increase this to 25 cents, effective 60 days after the bill takes effect.

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 the

transport, routing, or delivery to PSAPs of 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.)

### **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.
- For contracts entered into after the effective date of this bill, 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.

### **Commission report**

Separately, the commission would have to issue a report to the legislature and governor no later than December 1, 2020. The report would have to contain all of the following information:

- The total costs incurred by counties or 9-1-1 service districts that have transitioned to an IP-based 9-1-1 service provider.
- The estimated transition costs to be incurred by counties or 9-1-1 service districts that have not transitioned to an IP-based 9-1-1 service provider and the estimated dates for transition; the estimated ongoing, annual costs of operating the 9-1-1 network after the transition to an IP-based 9-1-1 service provider has been completed by all counties or 9-1-1 service districts choosing to transition; plus the estimated costs of operating the IP-based 9-1-1 network based on these estimates.
- The current 9-1-1 funding system revenues as reported by the committee.

The commission may collect data from counties, 9-1-1 service districts, IP-based 9-1-1 service providers, the state treasurer, and the state 9-1-1 committee as reasonably required to complete the report. Counties, 9-1-1 service districts, IP-based 9-1-1 service providers, the state treasurer, and the state 9-1-1 committee would have to submit any data reasonably required to compile the report. At the request of the commission, the committee would have to collect data from counties, 9-1-1 service districts, and IP-based 9-1-1 service providers that the commission reasonably requires to compile the report and submit that data to the commission. The committee is already required to make an annual report under Section 412 (MCL 484.1412), and this information would be collected and given to the commission at the same time.

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.

**HOUSE COMMITTEE ACTION:**

The House Committee on Communications and Technology adopted substitute H-1 on January 30, 2018. The H-1 Substitute removed permission that would have allowed a county board of commissioners to charge county 9-1-1 service users up to 48 cents per month, which was granted in the Senate versions. Instead, the allowable charge would remain at 42 cents per month. The H-1 Substitute also added the requirement for the commission to issue a report to the legislature and governor by December 1, 2020.

**FISCAL INFORMATION:**

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 (H-1).

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

Senate Bill 400 (H-1) could also result in indeterminate, though nominal, costs for the Michigan Public Service Commission, the Office of the Attorney General, and local units of government. The bill includes the requirement that the Michigan Public Service Commission report to the Legislature and Governor regarding costs associated with

transitioning to IP-based 9-1-1, which would likely incur nominal costs. Additionally, 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. Furthermore, 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 H-1.

<b>Table II</b>	<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
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>\$48.8 million</b>
<i>Note: Totals do not sum exactly due to rounding</i>			

## ***ARGUMENTS:***

### ***For:***

Supporters of the bill argue that Michigan's emergency 9-1-1 system is in dire need of upgrades. The utilization of pictures, videos, text, and GPS is attainable and needed for public and first responder safety. Many other companies, such as Dominoes and Uber, use that technology when ordering food or calling for a ride. Imagine getting that same, direct service when calling for emergency assistance!

Additionally, efficient responses, including response time, results in efficient use of funds. The increase in charges under the bill would go toward upgrading the current technology, but better services would come as a result of the needed technology upgrade. After the technology upgrade, first responders could know exactly where a disoriented driver is calling from and be able to drive directly there. Otherwise, first responders would first have to conduct a search, which would waste valuable minutes if the driver is injured. Also, events can cross jurisdictional borders, so first responders would be able to know when and where a call is coming from and form the correct response.

Furthermore, the technology upgrades would greatly improve emergency services for deaf, blind, and hard of hearing communities. Some of these individuals are unable to speak or hear, so current voice communication does not work for them. Also, some are unable to properly see a street sign or house number to be able to communicate their location. The utilization of text, video, and GPS could aid these individuals in communicating their needs and location effectively and correctly.

### ***Against:***

Concerns were raised against the bill regarding the fact that the FCC currently allows mobile companies to choose whether to have specific caller information available to 9-1-1 dispatch centers when an individual calls 9-1-1. So, this bill may not even help mobile callers.

### ***Response:***

Supporters of the bill responded to this concern by acknowledging this problem, but arguing that the other technology upgrades would still benefit mobile callers. Individuals calling from a mobile device would still be able to send text, video, or pictures, which could still help in identifying their location and needs.

**POSITIONS:**

Representatives of the following organizations testified in support of the bill as passed by the Senate (1-16-18):\*

- Department of Civil Rights, Division on Deaf, Blind, and Hard of Hearing
- State 9-1-1 Committee
- Peninsula Fiber Network, LLC
- American Heart Association

The following organizations indicated support for the bill as passed by the Senate:\*

- Michigan Association of Counties (1-16-18)
- Michigan Department of Civil Rights (1-16-18)
- Conference of Western Wayne (1-16-18)
- Bay County 9-1-1 (1-16-18)
- Michigan Townships Association (1-16-18)
- Kalamazoo County Dispatch (1-16-18)
- Michigan Bankers Association (1-16-18)
- AT&T (1-16-18)
- Michigan Municipal League (1-16-18)
- City of Grand Rapids (1-16-18)
- Michigan Communication Directors Association (1-16-18 and 1-30-18)
- Oakland County (1-16-18 and 1-30-18)
- Michigan Sheriff's Association (1-16-18)
- Grand Rapids 9-1-1 (1-16-18)
- Midland County 9-1-1 (1-16-18)

The following organizations indicated support for the H-1 version of the bill (1-30-18):\*

- State 9-1-1 Committee
- Michigan Sheriff's Association
- Grand Rapids 9-1-1
- Midland County 9-1-1
- Indiana Digital
- Clinton County 9-1-1
- Michigan Association of Fire Chiefs
- Mackinac County 9-1-1
- Indiana Digital

Legislative Analyst: Emily S. Smith

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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.

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\* For a description of the differences between SB 400 as it was passed by the Senate and SB 400 (H-1) as reported from the House Communications and Technology Committee, see *House Committee Action*, above.