

Legislative Analysis



STATE MATCH FOR ENHANCE 9-1-1 ACT GRANT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5622 (Substitute H-1)
Sponsor: Rep. Tonya Schuitmaker
Committee: Energy and Technology

Complete to 3-2-10

A SUMMARY OF HOUSE BILL 5622 AS REPORTED FROM COMMITTEE 2-23-10

The bill would amend the Emergency 9-1-1 Service Enabling Act, 1986 PA 32, to allow for a one-time distribution, in FY 2009-10, of up to \$1.7 million from the Emergency 9-1-1 Fund to the Department of State Police for an integrated Internet Protocol-based 9-1-1 mapping system in the state. The funds distributed to the MSP are to provide the state's matching funds for a grant under the federal ENHANCE 9-1-1 Act

MCL 484.1408

FISCAL IMPACT:

The bill would authorize a one-time distribution from the Emergency 9-1-1 Fund of up to \$1.7 million for an integrated IP-based 9-1-1 mapping system. This distribution represents the state's share of the costs of the project. The other half of the project's costs (another \$1.7 million) are borne by the federal government through a grant program under the Ensuring Needed Help Arrives Near Callers Employing (ENHANCE) 9-1-1 Act of 2004, P.L. 108-494 (H.R. 5419). On September 28, 2009, the National Highway Traffic Safety Administration (NHTSA) and the National Telecommunications and Information Administration (NTIA) awarded \$41.3 million in ENHANCE 9-1-1 Act grants to 30 states and U.S. territories.¹ It does not appear that the "distribution" made under the bill constitutes an appropriation.² A separate supplemental would still be required.³

¹ U.S. Department of Transportation, Office of Public Affairs, Press Release, September 28, 2009, *States and U.S. Territories Receive \$40 million in Grants to Improve 9-1-1 Services*.

² Article IX, §17 of the State Constitution provides, "No money shall be paid out of the state treasury except in pursuance of appropriations made by law."

³ For example, the act "distributes" from the Emergency 9-1-1 Fund, funding to counties and PSAPs, among others. Those funds are then appropriated in the annual budget for the Department of Treasury. As amended by 2006 PA 74, the act allowed to be "distributed" from the fund \$15.0 million to the State Building Authority for debt service payments on the Michigan Public Safety Communication System (MPSCS) bonds. Those funds were appropriated in the Department of Management and Budget FY 2005-2006 budget act, 2006 PA 146. The FY 2009-10 budget for the Department of State Police (2009 PA 133) appropriates \$5.0 million from the Emergency 9-1-1 Fund for the MPSCS. Legislation (HB 5599) allowing funding from the Emergency 9-1-1 Fund to be "distributed" for this purpose is currently pending before the House Committee on Appropriations. Moreover, the title of the act does not provide that its purpose is to make appropriations. See, for example, Public Act 3 of 1939, the Public Service Commission enabling act, which contains an appropriation made in FY 2008-09. The title of 1939 PA 3 provides that its purpose is, in part, to make appropriations.

MSP ENHANCE 9-1-1 Act Grant Proposal

The MSP, with the support of the State 9-1-1 Committee, is proposing to develop and implement a synchronized digital GIS database for use by the 181 public safety answering points (PSAPs) throughout the state. The database would enable the sharing of GIS mapping data among the several 9-1-1 entities in the state, and serve as the foundation for routing calls as the state transitions to an IP-enabled, next generation 9-1-1 system.⁴ Where the required GIS data does not exist, the project would begin to "fill in the gaps." The total cost of the project is estimated to be \$3,399,999, broken down as follows:

Component	Amount
Programming/Data Collection	\$2,086,883
Coordination/Consulting Costs	\$377,180
Training Costs	\$273,520
Software	\$266,000
Hardware	\$83,280
Administrative Costs	\$313,136
Project Total	\$3,399,999

Source: Department of State Police

ENHANCE 9-1-1 Act of 2004

Among other things, the ENHANCE 9-1-1 Act established a grant program to provide financial assistance to states, local governments, and tribal governments to support the

⁴ For a review of these issues, see, generally, Linda K. Moore, *Emergency Communications: The Future of 9-1-1*, Congressional Research Service, updated September 28, 2009, available publicly at [<http://www.nena.org/sites/default/files/CRS%20911%20Report%209.28.09.pdf>]. See, also, *State of Michigan State 9-1-1 Plan*, Department of State Police, Michigan State 9-1-1 Committee, June 23, 2009, [http://www.michigan.gov/documents/msp/State_of_MI_911_Plan_06232009_286537_7.pdf]. See, also, *Next Generation 9-1-1 Feasibility Study*, Kimball Technology Corporation, submitted to the State of Michigan 9-1-1 Committee, December 2009, [http://www.michigan.gov/documents/msp/Michigan_Next_Generation_9-1-1_Feasibility_Study_304211_7.pdf]. See, also, *A National Plan for Migrating to IP-Enabled 9-1-1 Systems*, The National E9-1-1 Implementation Coordination Office, September 2009, [http://www.e-911ico.gov/NationalNG911MigrationPlan_sept2009.pdf]. Federal regulations note, "[t]rends in telecommunications mobility and convergence have put the nation's 911 system at a crossroad. The growing market penetration of both wireless telephones (commonly known as mobile or cell phones) and Voice over Internet Protocol (VOIP) telephony have underscored limitations of the current 9-1-1 infrastructure. The 9-1-1 system, based on decades-old technology, cannot handle text, data, image and video that are increasingly common in personal communications and critical to emergency responses. Many of the limitations of the current 9-1-1 system stem from its foundation on 1970s circuit-switched network technology. Each introduction of a new access technology (e.g., wireless) or expansion of system functions (e.g., location determination) requires significant engineering and system modifications. There appears to be consensus within the 9-1-1 community on the shortcomings of the present 9-1-1 system and the need for a new, more capable system, based upon a digital Internet-Protocol (IP) based infrastructure...Upgrading the 9-1-1 system to an IP-enabled emergency network will enable E-9-1-1 calls from more networked communication devices; enable the transmission of text messages, photographs, data sets and video; enable geographically independent call access, transfer, and backup among PSAPs and other authorized emergency organizations; and support an 'interoperable internetwork' of all emergency organizations."

completion of Phase II Enhanced 9-1-1 services.⁵ (Phase II would enable wireless carriers to identify the geographic location of callers—it is not a fixed location [address], as is the case with landline callers—and transmit the information to public safety answering points receiving the emergency call. The state, as a whole, is Phase II compliant.) The corresponding federal regulations stated that grant funds can only be used for the acquisition and deployment of hardware and software that enables the implementation and operation of Phase II E-9-1-1 services, for the acquisition and deployment of hardware and software to enable the migration to an IP-enabled emergency network, and for training in the use of such hardware and software.⁶

The act makes grant assistance available to governmental entities, provided they meet certain conditions concerning the use of their own 9-1-1 funds. Specifically, the act provides that each grant applicant must certify from 180 days before the grant application, through the time period the grant funds are available that, "no portion of any designated E-9-1-1 charges imposed by a State or other taxing jurisdiction within which the application is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented."⁷ A grant recipient that fails to comply with this provision (i.e. that diverts state 9-1-1 funds) would have to return the grant funds received. If the state is unable to certify that it is not diverting E-9-1-1 funds it would not be eligible for grant assistance.⁸

Emergency 9-1-1 Fund

The Emergency 9-1-1 Fund consists of several separate accounts maintained by the Department of Treasury for the distribution of revenue from the State 9-1-1 Charge as provided in Section 408 of the act. Funding for the grant is available from the Suppliers/Local Exchange Providers Account, which had a balance of \$20.7 million at the end of Fiscal Year 2009. This fund balance has accumulated primarily because of recent changes in the state 9-1-1 charge. Prior to Public Act 244 of 2003 (HB 4439), the Emergency 9-1-1 Enabling Act imposed a monthly \$0.52/line state 9-1-1 charge on wireless (cellular) phone customers. Public Act 244, which became effective January 1, 2004, amended the act to reduce the state 9-1-1 charge to \$0.29/line, beginning after December 31, 2005. In the interim, wireless suppliers had to notify the Department of State Police (State 9-1-1 Committee) whether it would seek reimbursement from the fund

⁵The act authorized up to \$250 million in grant awards for each fiscal year from FY 2005 to FY 2009, with the section of law providing grant assistance sunseting on October 1, 2009. Fiscal Year 2009 was the only year funding was made available for the ENHANCE 9-1-1 Act grants. The funding was made available under Deficit Reduction Act of 2005, P.L. 109-171, from the Digital Television Transition and Public Safety Fund, which received a portion of the proceeds of the sale of the analog spectrum made available with the switch to digital television.

⁶ See, Title 47, Part 400 of the Code of Federal Regulations, [http://www.e-911ico.gov/FR_e911grants_090605.pdf].

⁷ Section 104 of the ENHANCE 9-1-1 Act Grant, codified at 47 USC 942.

⁸ Similar language concerning the inappropriateness of states diverting their 9-1-1 funds is also contained in the New and Emerging Technologies (NET) 9-1-1 Improvement Act of 2008, P.L. 110-283, which provided that nothing in the Wireless Communication and Public Safety Act of 1999, the Communications Act of 1934, the NET 9-1-1 Improvement Act of 2008, or any related FCC regulation or order prevents the imposition and collection of a fee or charge by a state for 9-1-1 services, "provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancement of such services, as specified in the provision or state...law adopting the fee or charge."

for costs related to the act and FCC 9-1-1 orders. If the supplier sought reimbursement, it charged a monthly state 9-1-1 charge of \$0.29/line. After December 31, 2005, the state 9-1-1 charge was uniformly set at \$0.29/line. The available balance in the Emergency 9-1-1 fund is a result of this transition between a \$0.52 charge and a \$0.29 charge, as the additional \$0.23/line charge exceeded suppliers' reimbursable costs or they didn't seek reimbursement. Subsequently, the state 9-1-1 charge was reduced to \$0.19/line and imposed on landline and VOIP customers, in addition to the cellular customers that previously paid the charge.

Fiscal Analyst: Mark Wolf

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