

Legislative Analysis



EMERGENCY 9-1-1 SERVICE ENABLING ACT

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House Bill 5026 (H-3) as reported from committee

Sponsor: Rep. Julie Calley

Committee: Communications and Technology

Complete to 10-26-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5026 would amend the Emergency 9-1-1-Service Enabling Act to change its sunset (expiration date) from December 31, 2021, to December 31, 2027. The bill also would increase the prepaid wireless 9-1-1 surcharge from 5% to 6%, provide for a future reduction of those surcharges under certain circumstances, prescribe certain 9-1-1 system capabilities, require review of collection and remittance compliance, allow audits of sellers, and change the timeline and certain notice requirements for tentative and final 9-1-1 service plans, among other changes described below.

9-1-1 system capabilities

The bill would require a 9-1-1 system to be capable of processing all 9-1-1 requests for service originating from devices connected to a communication service located in the emergency 9-1-1 district. A 9-1-1 request for service received from a location that is not within the service district would have to be processed to the extent technically feasible, via transfer or relay method, to the appropriate primary safety answering point (PSAP).¹

Prepaid wireless 9-1-1 surcharge

For prepaid wireless users, a seller must collect a prepaid wireless 9-1-1 surcharge of 5.0% per retail transaction occurring in Michigan. The bill would increase this surcharge to 6.0% per retail transaction.

Cost reimbursements

The act now requires that 25.56% of the money in the Emergency 9-1-1 Fund be available to reimburse local exchange providers for costs related to providing wireless emergency service and reimburse IP-based 9-1-1 service providers for costs related to providing IP-based 9-1-1 emergency service. The applicable entities may submit an invoice on a quarterly basis to the Michigan Public Service Commission (MPSC) for reimbursement for allowed costs.

The bill would change the invoices from quarterly to monthly. In addition, MPSC would have to notify the Department of Treasury within five business days after approving an invoice. The Department of Treasury would have to pay the invoice within 30 days of receiving that notice.

¹ Several of the terms used in this summary have specific definitions given to them for purposes of the act (for instance, in this provision, *communication service*, *emergency 9-1-1 district*, *transfer method*, *relay method*, and *primary safety answering point*). See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-484-1102.pdf>

The bill also would require 100% of the money deposited in the Emergency 9-1-1 Fund under a bill making appropriations for the fiscal year ending September 30, 2022, to be used to reimburse local exchange providers and IP-based 9-1-1 service providers as described above.²

Reductions to 9-1-1 service charges

The bill would require the Department of Treasury to notify MPSC after December 31, 2025, of the amount to be distributed for cost reimbursement as described above on a quarterly basis. If that amount exceeded \$12.0 million for three consecutive quarters, MPSC could initiate a proceeding to reduce the state 9-1-1 charge and the prepaid wireless 9-1-1 surcharge. The reduction would be made proportionately to ensure that the average quarterly balance to be distributed is sufficient to reimburse at least six months of ongoing approved costs related to transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service.

MPSC could request from the Department of Treasury any information reasonably necessary to make a determination described above, and the department would have to timely provide it.

If all emergency 9-1-1 districts in this state have not been fully converted to or contracted with an IP-based 9-1-1 service provider at the time of the proceeding, MPSC would have to take that into consideration, along with any incurred cost that has not been reimbursed by the IP-based 9-1-1 service provider, when determining the reduction.

MPSC would have to allow an interested person to intervene in a proceeding. MPSC would have to issue a final order within 180 days after the start of the proceeding and notify the legislature and IP-based 9-1-1 service providers within 10 days after issuing the final order.

Reductions to the state 9-1-1 charge and prepaid wireless 9-1-1 surcharge would take effect 60 days after the commission issues its final order.

Collection and remittance compliance

The Department of Treasury, in cooperation and conjunction with the State 9-1-1 Committee, would have to review the Emergency 9-1-1 Fund for compliance in the collection and remittance of prepaid wireless 9-1-1 surcharges under the act. (These surcharges are remitted monthly and deposited into the fund.) The review would have to contain findings on at least all of the following:

- The amount of money owed to the Emergency 9-1-1 Fund for prepaid wireless 9-1-1 surcharges.
- The amount of money remitted to the fund for prepaid wireless 9-1-1 surcharges.
- Any other pertinent information to locate and address noncompliance with the collection and remittance of prepaid wireless 9-1-1 surcharges as determined by the Department of Treasury or the State 9-1-1 Committee.

² The referenced act appears to be 2021 PA 87, Article 5 of which appropriates \$16.0 million to the Emergency 9-1-1 Fund for the fiscal year ending September 30, 2022, for NextGen infrastructure.

- Any other pertinent information on the marketplace that could help accurately predict revenue from prepaid wireless 9-1-1 surcharges.

The Department of Treasury and the State 9-1-1 Committee would have to issue a report to the legislature regarding the above findings by June 30, 2023. The report also would have to contain recommendations to the legislature to increase compliance.

In addition, the bill would authorize the Department of Treasury to examine the books, records, and papers and audit the accounts of a seller to determine whether the seller has correctly collected and remitted the prepaid wireless 9-1-1 surcharges due under the act. An examination or audit could be conducted to the same extent as provided under 1941 PA 122, known as the revenue act, and would be performed in accordance with section 21 of that act. A departmental assessment, decision, or order issued as a result of an examination or audit would be subject to appeal as provided in section 22 of the revenue act, and an assessment of claim of a refund would be subject to the time periods specified in section 27a(2) to (4) of that act.

Before starting an examination or audit, the Department of Treasury would have to find out whether MPSC had initiated an investigation, or the attorney general had commenced a civil action, under the act. The Department of Treasury could not examine or audit a seller for the same conduct for which MPSC was investigating a seller or the attorney general had commenced a civil action.

Similarly, before initiating an investigation or commencing a civil action under the act, MPSC or the attorney general, respectively, would have to find out whether the Department of Treasury had initiated an examination or audit. An investigation or civil action could not be commenced for the same conduct that was being examined or audited by the Department of Treasury.

Tentative and final 9-1-1 service plans

The bill would revise some timing and notice requirements for tentative and final 9-1-1 service plans adopted by a county board of commissioners to establish an emergency 9-1-1 district.

Currently, a resolution adopting a tentative 9-1-1 service plan must provide information about a public hearing on the final plan. The bill instead would still refer to the plan as a tentative plan at this point in the process. The plan would not become the final 9-1-1 service plan until it has been adopted by the county board of commissioners after the hearing.

After adopting a resolution adopting a tentative plan, the county clerk must forward a copy of the resolution and a copy of the plan to relevant local officials. Instead of requiring a copy of the plan to be sent, the bill would require a letter to be sent that indicates where an electronic or paper copy of the plan can be obtained. This information would also have to be included in the public notice of the hearing on the plan, which under the bill could be published in a newspaper or other media outlet of general circulation in the county. (The law now specifically requires publication in a newspaper.)

After a final plan has been adopted, the county board of commissioners may amend it by resolution for certain listed reasons, to which the bill would add changes involving the addition or deletion of primary or secondary PSAPs in the 9-1-1 service district. The bill also would allow grammatical changes to be made to a final plan without a resolution of the board.

Other provisions

The bill would remove obsolete provisions pertaining to a report that had to be filed by the MPSC by December 1, 2020.

The bill would remove several provisions that now prescribe procedures for routing emergency calls from a multiline telephone system, including verifying the location of callers using such a system.³ The bill instead would require a multiline telephone system to comply with the most up-to-date version of 49 CFR 9.15 to 9.17.⁴

The bill would make several other changes that appear to be technical in nature.

Sunset

As described above, the act now provides that it is repealed on December 31, 2021. The bill would change this date to December 31, 2027.

MCL 484.1102 et seq.

FISCAL IMPACT:

House Bill 5026 would have significant fiscal implications for the state and potentially for counties that receive funding distributions from the Emergency 9-1-1 Fund. Specifically, the bill would increase revenue to the Emergency 9-1-1 Fund and would likely increase costs for the Department of Treasury.

The bill would increase revenue to the Emergency 9-1-1 Fund by increasing the prepaid wireless 9-1-1 surcharge on retail transactions from 5% to 6%. The Department of State Police (MSP) indicated that the current 5% surcharge is creating revenue of approximately \$4,269,000 per quarter. The 6% surcharge (as revised under the bill) would result in approximate revenue of \$5,122,800 per quarter, an increase of \$853,800 per quarter. This revenue is deposited to the Emergency 9-1-1 Fund, which also receives revenue from the \$0.25 state 9-1-1 fee on postpaid devices. Funds in the Emergency 9-1-1 Fund are distributed, pursuant to statute, as follows:

- 65% to counties with final 9-1-1 plans in place (with 40% of the 65% distributed quarterly on an equal basis to each county and 60% distributed quarterly on a population basis).

³ See <https://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-4249-D49EB369.pdf>

⁴ The link below is to the most up-to-date version as of this writing. The Federal Communications Commission is the federal agency that would be responsible for determining these provisions in the future.
<https://www.ecfr.gov/current/title-47/chapter-I/subchapter-A/part-9/subpart-F>

- 25.56% to reimburse local exchange providers for costs associated with wireless emergency service and to reimburse IP-based 9-1-1 service providers for costs related to transport routing or delivery to public safety answering points (PSAPs) of IP-based 9-1-1 emergency service.
- 5.5% to PSAPs for training 9-1-1 center personnel.
- 1.5% to MSP for operating a regional dispatch center.
- 2.44% to MSP for costs of administering the act and maintaining the office of the State 9-1-1 Coordinator.

Beginning January 1, 2026, the bill would allow the State 9-1-1 Committee to reduce the amount of the state 9-1-1 charge and the prepaid wireless surcharge if the amount of quarterly distributions from the Emergency 9-1-1 Fund for reimbursing local exchange providers and IP-based 9-1-1 service providers exceeds \$12.0 million for three consecutive quarters. The bill would allow rates to be lowered so that the average quarterly balance distributed would be sufficient to reimburse at least six months of ongoing approved costs related to transport routing or delivery to PSAPs of IP-based 9-1-1 emergency service. The bill also includes considerations that must be made if such a cost lowering proceeding occurs before all emergency 9-1-1 districts in the state have been fully converted to or contracted with an IP-based 9-1-1 service provider.

The provisions of the bill would increase administrative and oversight costs for the Department of Treasury related to collection and remittance oversight. According to the Department of Treasury, implementing a new system for reconciling payments that would accommodate the provisions of the bill would cost approximately \$1.0 million. In addition, the department estimated that approximately \$500,000 would be needed to support additional ongoing costs under the bill, which would primarily support personnel.

The bill also would require the \$16.0 million appropriated to the Emergency 9-1-1 Fund in Article 5 of 2021 PA 87 to be used for reimbursing local exchange providers for the costs related to wireless emergency services and to reimburse IP-based 9-1-1 service providers for the costs related to the transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service.

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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.