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House Bill 5026 (Substitute H-4 as passed by the House)  
Sponsor: Representative Julie Calley  
House Committee: Communications and Technology  
Senate Committee: Energy and Technology

Date Completed: 11-9-21

### **CONTENT**

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

- **Require a 9-1-1 system to be capable of processing all 9-1-1 requests for service originating from devices connected to a communications service located within the emergency 9-1-1 district.**
- **Modify certain requirements for the establishment of a finalized 9-1-1 service plan.**
- **Modify, from 5.0% per retail transaction to 6.0% per retail transaction, the amount of the prepaid wireless 9-1-1 surcharge, beginning March 1, 2022.**
- **Require the Department of Treasury, alongside the State 9-1-1 Committee, to review the Emergency 9-1-1 Fund created under the Act for collection and remittance compliance and to issue a report to the Legislature regarding certain findings, by June 30, 2023.**
- **Require the Michigan Public Service Commission (MPSC) and the Attorney General to consult with the Department to determine whether the Department initiated an examination or audit before the MPSC or Attorney General could take certain action against a retailer of a prepaid wireless telecommunication service for failure to comply with requirements of the Act.**
- **Require the Department to notify the MPSC on a quarterly basis of the balance available for distribution for the purpose of reimbursing local exchange providers, beginning December 31, 2025.**
- **Allow the MPSC to initiate a proceeding to reduce the State 9-1-1 charge and the prepaid wireless 9-1-1 surcharge if the balance available for distribution exceeded \$12.0 million for three consecutive quarters, beginning December 31, 2025.**
- **Require 100% of the money deposited into 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 for the costs related to wireless emergency service 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.**
- **Modify and delete provisions related to multiphone telephone systems (MLTS), and instead require and MLTS to comply with the most recent version of applicable Federal regulations.**

**The bill also would repeal the Emergency 9-1-1 Service Enabling Act effective December 31, 2027.**

## Modified Definitions

"Common network costs" means the costs associated with the common network required to deliver a 9-1-1 call with automatic location identification (ALI) and automatic number identification (ANI) from a selective router to the proper primary public safety answering point (PSAP) and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. The bill would include in the definition the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from an emergency services routing proxy to the proper primary PSAP.

"Primary public safety answer point" or "primary PSAP" 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, by the direct dispatch method, relay method, or transfer method. The Act specifies that the primary PSAP is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any. Instead, the bill would specify that the primary PSAP was the first point of reception by a public safety agency of a 9-1-1 call and served the participating jurisdictions.

"Emergency telephone technical charge" means a charge as allowed under the Act for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network from the end user to the selective router, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under the Act. Under the bill, the term would mean a charge as allowed under the Act for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network or IP-based 9-1-1 transport network from the end user to the selective router or emergency services routing proxy, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under the Act.

## Requirements of a 9-1-1 System

The Act requires a 9-1-1 system to be capable of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to one or more public safety agencies that provide the requested service to the place where the call originates. The 9-1-1 system must process all 9-1-1 calls originating from telephones within an exchange any part of which is within the emergency 9-1-1 district served by the system.

Under the bill, a 9-1-1 system also would have to be capable of processing all 9-1-1 requests for service originating from devices connected to a communications service located within the emergency 9-1-1 district. A 9-1-1 request for service that was received but was not from a location within the service district would have to be processed to the extent technically feasible, via transfer or relay method, to the appropriate PSAP.

("Transfer method" means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit. "Relay method" means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.)

## Establishment of a 9-1-1 Service Plan

The Act requires the board of commissioners of a county to adopt a tentative 9-1-1 service plan by resolution to establish an emergency 9-1-1 district and to cause 9-1-1 service to be implemented in that emergency district. Among other requirements, a tentative 9-1-1 service plan must require each public agency operating a PSAP under the 9-1-1 system to pay directly for all installation and recurring charges for terminal equipment, including customer premises equipment, associated with the public agency's PSAP, and may require each public agency operating a PSAP under the 9-1-1 system to pay directly to the service supplier all installation and recurring charges for all 9-1-1 exchange and tie lines associated with the public agency's PSAP. Instead, the tentative 9-1-1 service plan would have to require each public agency operating a PSAP under the 9-1-1 system to pay directly for installation and recurring charges for terminal equipment, including *call handling* equipment, associated with the public agency's PSAP, and allow the plan to require each public agency operating a PSAP under the 9-1-1 system to pay directly to the service supplier all installations and recurring charges for all *connectivity* associated with the public agency's PSAP.

("Emergency 9-1-1 district" means 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 Act specifies that within five days after the adoption of a resolution, the county clerk must forward a copy of the resolution, together with a copy of the tentative 9-1-1 service plan to the clerk or other appropriate official of each public agency located within the 9-1-1 district of the tentative service plan. Instead, under the bill, the county clerk would have to forward a copy of the resolution, together with a letter indicating where an electronic or paper copy of the tentative 9-1-1 service plan could be obtained.

Under the Act, any public safety agency designated in the tentative 9-1-1 service plan to function as a PSAP or secondary PSAP must be designated as such under the final 9-1-1 service plan if the agency files with the county clerk a notice of intent to function as a PSAP or a secondary PSAP within 45 days after the public agency which the public safety agency has been designated to serve by the tentative 9-1-1 service plan receives a copy of the resolution and the tentative 9-1-1 service plan adopted as described above. Under the bill, any public safety agency designated in the tentative 9-1-1 service plan as described above intending to function as a PSAP or secondary PSAP would have to be designated as such under the final 9-1-1 service plan if the agency filed with the county clerk a notice of intent to function as a PSAP or secondary PSAP within 45 days after it received a copy of the resolution and letter.

("Secondary PSAP" means a communication facility or a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.)

The Act requires the clerk of each county that has adopted a tentative 9-1-1 service plan to give notice by publication of the hearing on the final 9-1-1 service plan to be held as required by the Act. The notice must be published twice in a newspaper of general circulation within the county. Under the bill, the notice could be published twice in a newspaper or other media outlet of general circulation within the county.

The notice must state all the following:

- The time, date, and place of the hearing,
- A description of the boundaries of the 9-1-1 service district of the final 9-1-1 service plan.

-- If the board of commissioners of the county, after a hearing, adopts the final 9-1-1 service plan, the State 9-1-1 charge and, if a county 9-1-1 charge has been approved, a county 9-1-1 charge must be collected on a uniform basis from all service users within the 9-1-1 service district.

The bill also would require the notice to state the location where an electronic or paper copy of the tentative 9-1-1 service plan could be obtained.

Under the Act, the board of commissioners must conduct a hearing on the final 9-1-1 service plan at the time, place, and date specified in the notice. After conducting the hearing on the final 9-1-1 service plan, the board of commissioners may adopt by resolution the final 9-1-1 service plan. The bill would replace the references to final 9-1-1 service plan with tentative 9-1-1 service plan and specify that the adoption of the plan by resolution would make the service plan the final 9-1-1 service plan.

"Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under the Act. Under the bill, the term would mean a tentative 9-1-1 service plan that has been approved under Sections 305, 307, 308, 309, and 310 and has been modified only to reflect grammatical changes and necessary changes from any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under the Act. (Section 305, 307, 308, 309, and 310 collectively establish the process under which a county's tentative 9-1-1 service plan becomes a final 9-1-1 service plan.)

The Act allows the county board of commissioners to make minor amendments to the final 9-1-1 service plan for changes in PSAP premises equipment and changes involving the participating public safety agencies within a 9-1-1 service district. Under the bill, the county board of commissioners also could make minor amendments by resolution to the final 9-1-1 service plan for changes involving the addition or deletion of primary or secondary PSAPs within the 9-1-1 service district.

#### State 9-1-1 Charge

Under the Act, each service supplier within a 9-1-1 service district must bill and collect a State 9-1-1 charge from all service users, except for users of a prepaid wireless telecommunications service, of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided. The State 9-1-1 charge is \$0.25. The bill would subject that charge to language, described below, that would allow the MPSC to initiate a proceeding to reduce the State 9-1-1 charge and the prepaid wireless 9-1-1 surcharge under certain circumstances.

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. The amount of the prepaid wireless 9-1-1 surcharge is 5.0% per retail transaction. The bill specifies that this amount would apply until February 28, 2022, and that subject to the proposed provision allowing the MPSC to reduce charges, beginning March 1, 2022, the amount of the prepaid wireless 9-1-1 surcharge would be 6.0% per retail transaction. ("Seller" means a person who sells prepaid wireless telecommunications service to another person.)

Generally, if a prepaid wireless telecommunications service is sold with one or more products or services for a single, nonitemized price, the seller must collect 5.0% on the entire nonitemized price unless the seller elects for another option. Under the bill, except as otherwise provided in provisions proposed by the bill, if a prepaid wireless telecommunications service were sold with one or more products or services for a single, nonitemized price, the seller would have to collect 5.0% until February 28, 2022, and 6.0%, beginning March 1,

2022, on the entire nonitemized prices unless the seller elected for another option as provided by the Act.

The Act requires the seller to remit the prepaid wireless 9-1-1 surcharge monthly to the State Treasurer, who must deposit it in the Emergency 9-1-1 Fund. Under the bill, the Department of Treasury, in cooperation and in conjunction with the State 9-1-1 Committee, would have to review the Emergency 9-1-1 Fund for collection and remittance compliance. The review would have to contain findings on at least all the following:

- The amount of money owed to the Fund.
- The amount of money remitted to the Fund.
- Any other pertinent information to locate and address noncompliance with the Act as determined by the Department or the State 9-1-1 Committee.
- Any other pertinent information on the prepaid mobile wireless calling service and prepaid wireless calling service marketplace that could help predict accurately revenue.

By June 30, 2023, the Department and the State 9-1-1 Committee would have to issue a report to the Legislature regarding the above findings, and in addition to the requirements above, the report would have to contain recommendations to the Legislature to increase compliance with the remittance requirements.

Subject to the provision described below, to determine whether a seller had collected correctly and remitted the prepaid wireless 9-1-1 surcharge, the Department could examine the books, records, and papers and audit the accounts of a seller or any other records to the same extent as provided under Public Act (PA) 122 of 1941. An examination or audit performed by the Department would have to be done following the procedures under Section 21 of that Act. An assessment, decision, or order of the Department issued because of an examination or audit under the Emergency 9-1-1 Services Enabling Act would be subject to appeal as provided under Section 22 of PA 122 of 1941. An assessment or claim for a refund would be subject to the time periods specified under Section 27a(2) to 27a(4) of PA 122 of 1941. Before initiating an examination or audit, the Department would have to consult with the MPSC and the Attorney General to determine whether the MPSC had initiated an investigation or the Attorney General had commenced a civil action under the Act.

The bill specifies that if the MPSC were investigating a seller or the Attorney General had commenced a civil action against a seller under the Emergency 9-1-1 Services Enabling Act, the Department could not examine or audit the seller for the same conduct that was being investigated by the MPSC or for which a civil action had commenced.

(Public Act 122 of 1941 establishes the revenue division of the Department of Treasury and prescribes its powers, duties, and functions. Section 21 of the Act prescribes the process by which the Department may acquire information to base assessments. Section 22 allows a taxpayer aggrieved by an assessment, decision, or order to appeal the contested portion to the tax tribunal within 60 days, or to the court of claims within 90 days after the assessment, decision, or order. Section 27a(2) establishes a statute of limitations on a deficiency, interest, or penalty of four years after the date set for the filing of the required return or after the date the return was filed, whichever was later. Sections 27a(3) and 27a(4) provide circumstances under which the statute of limitations described above may be extended.)

#### Billing of 9-1-1 Charges

Under the Emergency 9-1-1 Service Enabling Act, each service supplier is solely responsible for the billing of the State and county 9-1-1 charge and transmitting the money to the Fund and to the counties as required by the Act. The State 9-1-1 Committee, a county, or a 9-1-1

service district must notify the MPSC if it is aware of a service supplier, a commercial mobile radio service (CMRS) supplier, reseller, or retailer of a prepaid wireless telecommunications service that has failed to report, charge, collect, or transmit the 9-1-1 charges required under the Act. Before the Attorney General commences a suit as described below, the MPSC must investigate any failure to report, charge, collect, or transmit charges and attempt to resolve those complaints. In addition, before the MPSC initiated an investigation, the bill would require it to consult with the Department to determine whether the Department initiated an examination or audit under the Act. ("Service supplier" means a person providing a communication service to a service user in the State.)

Upon referral by the MPSC, the Attorney General may commence a civil action against a service supplier, CMRS supplier, reseller, or retailer of a prepaid wireless telecommunications service for appropriate relief for failure to report, charge, collect, and transmit the State 9-1-1 charges under the Act. The bill would require the Attorney General to consult with the Department to determine whether the Department initiated an examination or audit under the Act before the Attorney General commenced a civil action.

Under the bill, if the Department of Treasury were examining or auditing a retailer of a prepaid wireless telecommunications service under the Act, the MPSC could not initiate an investigation and the Attorney General could not commence a civil action against a retailer of a prepaid wireless telecommunication service for the same conduct that was being examined or audited by the Department.

#### Fund Balance & Modified 9-1-1 Charges

Under the Act, except as otherwise provided, the money collected as the State 9-1-1 charge must be deposited in the Fund within 30 days after the end of the quarter in which the charge was collected. The Act prescribes the annual distribution of the money. Among other requirements, 25.56% of the Fund must be available to reimburse local exchange providers for the costs related to wireless emergency service 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. Any cost reimbursement allowed under the Act must not include a cost that is not related to wireless emergency service or to IP-based 9-1-1 emergency service. ("IP-based 9-1-1 service provider" means 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.)

A local exchange provider or an IP-based 9-1-1 service provider may, on a quarterly basis, submit an invoice to the MPSC for reimbursement from the Fund for allowed costs. Except as otherwise provided, within 45 days after the date an invoice is submitted to the MPSC, the MPSC must approve, either in whole or in part, or deny the invoice. Under the bill, a local exchange provider or an IP-based 9-1-1 service provider could submit an invoice to the MPSC as on a monthly basis. In addition, the bill specifies that the MPSC would have to notify the Department within five business days of the MPSC's approval of the invoice, and the Department would have to pay the approved invoice within 30 days of receiving the notice.

Under the bill, after December 31, 2025, the Department would have to notify the MPSC on a quarterly basis of the balance available for distribution for the purpose of reimbursing local exchange providers as described above. If the balance available for distribution exceeded \$12.0 million for three consecutive quarters, the MPSC could initiate a proceeding to reduce the State 9-1-1 charge and the prepaid wireless 9-1-1 surcharge proportionately to ensure that the average quarterly balance to be distributed was 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 specifies that if all emergency 9-1-1 districts in the State had not been converted fully to or contracted with an IP-based 9-1-1 service provider at the time of the proceeding described above, the Commission would have to take that into consideration along with any incurred cost that had not been reimbursed to the IP-based 9-1-1 service provider when determining the reduction described above.

The MPSC could request any data from the Department that was reasonably necessary to make a determination for the reduction of the State 9-1-1 charge and the prepaid wireless surcharge as described above. The Department would have to provide the data requested in a timely fashion. The MPSC would have to allow an interested person to intervene in a proceeding to reduce the charges.

The bill would require the MPSC to issue a final order within 180 days after a proceeding commenced. The MPSC would have to notify the Legislature and the IP-based 9-1-1 service providers of a final order within 10 days of issuing the final order. Reductions to the State 9-1-1 charge and IP-based 9-1-1 service surcharge would take effect 60 days after the Commission issued a final order.

Under the bill, 100% of the money deposited into the Emergency 9-1-1 Fund under a bill making appropriations for the fiscal year ending September 30, 2022, would have to be used to reimburse local exchange providers for the costs related to wireless emergency service 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.

#### Consolidated Dispatch

Under the Act, a county must create an emergency 9-1-1 district board if a county creates a consolidated dispatch within an emergency 9-1-1 district. The Act prescribes the membership, powers, and duties of the board. The Act specifies that the basis under which a consolidated dispatch meets the requirement for being a dispatch under Section 102(c) must determine the system to be used in dispatching participating service units. Under the bill, the basis under which a consolidated dispatch met the requirement for being a primary PSAP under the Section 102 of the Act would determine the system to be used in dispatching participating service units.

(Under Section 102, "consolidated dispatch" means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, firefighting, emergency medical service, and other emergency service agencies within the geographical are of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.)

#### Multiline Telephone Systems

Under the Act, the MPSC may promulgate rules to establish one or more of the following:

- Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in the State.
- Standards for the training of PSAP personnel.
- Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds.
- The penalties and remedies for violations of the Act and the rules promulgated thereunder.

In addition, the Act allows the MPSC to promulgate rules to establish the requirements for a multiline telephone system (MLTS). The bill would delete this provision, and other requirements pertaining to MLTS. Instead, an MLTS would have to comply with the most up-to-date version of applicable Federal regulations. ("Multiline telephone system" means a system composed of common control unit or units, telephone sets with unique telephone numbers, and control hardware and software.)

MCL 484.1102 et al.

Legislative Analyst: Tyler VanHuyse

**FISCAL IMPACT**

The bill would have a significant fiscal impact on State government and on local units of government, specifically counties. The MPSC could incur minor costs related to the processing of invoices from local exchange providers or IP-based 9-1-1 service providers on a monthly, rather than a quarterly, basis. However, most costs related to payment processing and reimbursements would be incurred by the Department of Treasury.

Under the bill, the prepaid wireless 9-1-1 surcharge would be increased from 5.0% to 6.0% per retail transaction beginning March 1, 2022. This would result in increased revenue to the Emergency 9-1-1 Fund, which is administered by the Department of Treasury. The Department of State Police estimates that the change would result in an increase of about \$850,000 per quarter.

If, after December 31, 2025, the quarterly distribution from the Fund for the reimbursement of local exchange providers and IP-based 9-1-1 service providers were greater than \$12.0 million for three consecutive quarters, the State 9-1-1 Commission could reduce the State 9-1-1 charge and the prepaid wireless 9-1-1 surcharge. However, this reduction would be proportionate to ensure that the average quarterly balance to be distributed was 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.

Distribution of the Emergency 9-1-1 Fund is dictated by statute as follows:

<b>Percent</b>	<b>Disbursement</b>
65%	Each county with a final 9-1-1 plan in place.
25.56%	Local exchange providers for reimbursement of costs related to wireless emergency service; IP-based 9-1-1 service providers for reimbursement of costs related to the transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service
5.5%	PSAPs for training personnel assigned to 9-1-1 centers.
2.44%	Department of State Police for cost of administering the Emergency 9-1-1 Service Enabling Act.
1.5%	Department of State Police for operation of a regional 9-1-1 dispatch center.

The surcharge increase would result in increased revenue to counties with a final 9-1-1 plan and PSAPs operated by counties, cities, or townships. The Department of State Police would receive additional revenue according to the distribution in the table above.

The bill also would require 100% of the funds deposited into the Emergency 9-1-1 fund in Public Act 87 of 2021 to be used to reimburse local providers for the costs related to wireless emergency service and IP-based 9-1-1 service providers for costs related to the transport, routing, or delivery to PSAPs of IP-based 9-1-1 emergency service. This amount is equal to the one-time appropriation of \$16.0 million General Fund/General Purpose to the NextGen Infrastructure line item included in the Act.



The bill likely would result in significant administrative costs to the Department of Treasury because of the proposed requirement to track and process payments. The cost of the required review of the Emergency 9-1-1 Fund and subsequent report to the Legislature would be adequately funded by existing appropriations.

Fiscal Analyst: Elizabeth Raczowski

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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.