

Act No. 81  
Public Acts of 1999  
Approved by the Governor  
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STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 1999

Introduced by Senators Goschka and Van Regenmorter

# ENROLLED SENATE BILL No. 493

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending sections 401, 403, 404, 405, 406, and 505 (MCL 484.1401, 484.1403, 484.1404, 484.1405, 484.1406, and 484.1505), sections 401, 403, and 405 as amended and section 406 as added by 1994 PA 29.

*The People of the State of Michigan enact:*

Sec. 401. (1) An emergency telephone district board, a 9-1-1 service district as defined in section 102 and created pursuant to section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the emergency telephone operational charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency telephone district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for basic local exchange service pursuant to section 304b of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304b, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for basic local exchange service pursuant to section 304b of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304b, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for basic local exchange service pursuant to section 304b of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304b, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners pursuant to section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for basic local exchange service pursuant to section 304b of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304b, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for basic local exchange service pursuant to section 304b of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304b, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of \$20.00 or the highest monthly flat rate charged for basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved pursuant to this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected pursuant to this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before the effective date of the amendatory act that added this subsection, then the emergency telephone operational charge

collected pursuant to this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) Except as provided in sections 407 to 412, this section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency telephone district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge and the emergency telephone operational charge shall not be levied or collected after December 31, 2006. However, if all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

Sec. 403. Except as provided in sections 407 to 412, each service supplier shall be solely responsible for the billing for the emergency telephone charge and the transmittal of money collected from the emergency telephone operational charge.

Sec. 404. After commencement of collection of the emergency telephone charge within a particular 9-1-1 service district, a service supplier providing or designated to provide 9-1-1 service pursuant to this act shall not alter the emergency telephone charge collected from service users within the 9-1-1 service district pursuant to this act except as follows:

(a) As provided in sections 405 and 407 to 412.

(b) Subject to the limitations provided by section 401(4), if additions or withdrawals of PSAPs or secondary PSAPs are made to the 9-1-1 service within a 9-1-1 service district pursuant to this act, the emergency telephone charge shall be increased or decreased in an amount such that the total emergency telephone charges to be collected in such billing period and in each billing period thereafter shall equal the total cost of providing 9-1-1 service within the 9-1-1 service district based on the rates and charges of the service supplier.

(c) Subject to the limitations provided by section 401(4), if a public agency is added to or withdraws from a 9-1-1 service district pursuant to this act, the emergency telephone charge shall be increased or decreased within the jurisdiction of the particular public agency in an amount such that the total emergency telephone charges to be collected in such billing period and in each billing period thereafter shall equal the total cost of providing 9-1-1 service within the modified 9-1-1 service district based on the rates and charges of the service supplier.

Sec. 405. (1) Except as provided in sections 407 to 412, within 90 days after the first day of the calendar year following the year in which a service supplier commenced collection of the emergency telephone charge pursuant to section 401, and within 90 days after the first day of each calendar year thereafter, a service supplier providing 9-1-1 service pursuant to this act shall make an annual accounting to the 9-1-1 service district of the total emergency telephone charges collected during the immediately preceding calendar year.

(2) If an annual accounting made pursuant to subsection (1) discloses that the total emergency telephone technical charges collected during the immediately preceding calendar year exceeded the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the rates and charges of the service supplier, the service supplier shall adjust the emergency telephone technical charge collected from service users in the 9-1-1 service district in an amount computed pursuant to this section. The amount of the adjustment shall be computed by dividing the excess by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting. Costs of the service supplier associated with making the adjustment under this subsection as part of the billing and collection service shall be deducted from the amount to be adjusted.

(3) If the annual accounting discloses that the total emergency telephone charges collected during the calendar year are less than the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the costs and rates of the service supplier, the service supplier shall collect an additional charge from service users in the 9-1-1 service district in an amount computed pursuant to this section. Subject to the limitations provided by section 401(4), the amount of the additional charge shall be computed by dividing the amount by which the total cost exceeded the total emergency telephone charges collected during the immediately preceding calendar year by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting.

Sec. 406. (1) Except as provided in sections 407 to 412, the emergency telephone operational charge funds collected and expended pursuant to this act shall be used exclusively for the operation of the 9-1-1 system.

(2) Each PSAP or secondary PSAP shall assure that fund accounting, auditing, monitoring, and evaluation procedures are provided. The accounting procedures shall provide for accurate and timely recording of receipt and disbursement of funds by source.

(3) An annual audit shall be conducted by an independent auditor using generally accepted accounting principles and copies of the annual audit shall be made available for public inspection.

(4) An increase in 9-1-1 operational funds shall not be authorized or expended for the next fiscal year unless an annual audit has been performed for the previous fiscal year and expenditures are in compliance with this act. Except as provided in subsection (5), the PSAP shall continue to operate at the same funding level as the previous fiscal year until an audit is performed as required by this section.

(5) The recurring emergency telephone operational charge authorized under section 401 shall not be expended if an audit has not been performed as required by this section within 120 days of the end of the fiscal year.

Sec. 505. (1) After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, a public agency all or part of which is included within a 9-1-1 service district may withdraw all or part of its jurisdiction from a 9-1-1 service district effective January 1 of the following year if all of the following occur:

(a) The public agency, after giving notice required in subdivisions (b) and (c), conducts a public hearing on the withdrawal at which all persons attending are afforded a reasonable opportunity to be heard.

(b) Written notice of the time, date, and place of the public hearing conducted by the public agency is given to the county clerk and the clerk of each public agency within the 9-1-1 service district, at least 30 days prior to the date of the hearing.

(c) Notice of the time, date, place, and purpose of the public hearing is published twice in a newspaper of general circulation within the public agency, the first publication of the notice occurring at least 30 days prior to the date of the hearing.

(d) After the public hearing on withdrawal but prior to 90 days before the end of the calendar year, the legislative body of the public agency adopts a resolution withdrawing all or part of the area of the public agency from the 9-1-1 service district. Such resolution shall describe the area of the public agency withdrawing from the 9-1-1 service district. The resolution shall also state the emergency telephone number to be used within the jurisdiction of the public agency following withdrawal from the 9-1-1 service district.

(e) Within 5 days after adoption of the resolution by the legislative body of the public agency, the clerk or other appropriate official of the public agency shall forward such resolution by certified mail, return receipt requested, to the county clerk. Within 5 days of receipt of a certified copy of the resolution adopted pursuant to this section, the county clerk shall forward such resolution by certified mail, return receipt requested, to the service suppliers providing or designated to provide 9-1-1 service to the area of the public agency withdrawing from the 9-1-1 service district.

(2) A public service agency may not withdraw any part of its jurisdiction from a 9-1-1 service district until all outstanding qualified obligations secured by emergency telephone operational charges incurred after the time of the addition of the public service agency to the 9-1-1 service area agreed to by the withdrawing public service agency and the remaining public service agencies comprising the 9-1-1 service district are paid or other provisions are made to pay the qualified obligations.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

- (a) House Bill No. 4658.
- (b) House Bill No. 4659.
- (c) Senate Bill No. 492.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.