

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 61

(Senators Kagan and Reilly)

Budget and Taxation

Health and Government Operations

Public Safety - 9-1-1 Fees - Audits

This emergency bill requires telephone companies and commercial mobile radio service (CMRS) providers to keep records of 9-1-1 fees collected and remitted for at least four years after the fees are remitted. The Comptroller, in consultation with the Emergency Number Systems Board (ENSB), must adopt procedures for auditing fee collection and remittance by both telephone companies and CMRS providers (instead of the board being required to adopt procedures for auditing only CMRS providers). The Comptroller is entitled to 0.5% of the State 9-1-1 fees to cover the expenses of conducting audits and may adopt regulations to implement the bill. Finally, the bill reduces the percentage of State 9-1-1 fees that each 9-1-1 service carrier is entitled to keep to cover administrative costs, from 0.75% to 0.50% of the fees.

Fiscal Summary

State Effect: Special fund revenues decrease by \$17,400 in FY 2020. General fund revenues and expenditures both increase by \$42,100 in FY 2020. Future years are annualized.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	\$42,100	\$125,900	\$129,400	\$133,000	\$137,600
SF Revenue	(\$17,400)	(\$26,900)	(\$30,400)	(\$34,000)	(\$38,600)
GF Expenditure	\$42,100	\$125,900	\$129,400	\$133,000	\$137,600
Net Effect	(\$17,400)	(\$26,900)	(\$30,400)	(\$34,000)	(\$38,600)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The audit procedures adopted by the Comptroller must be consistent with the audit and appeal procedures established for the sales and use tax. The Comptroller (1) may issue an administrative subpoena to compel compliance with an audit and (2) must develop and distribute related informational materials to telephone companies and CMRS providers, as specified. By December 1 each year, the Comptroller must submit an annual report to ENSB detailing the audits conducted in that year, including the outcome of each audit. The Comptroller is authorized to disclose tax information to ENSB.

If requested to do so by a telephone company or CMRS provider, unless otherwise required by the law, information provided to the Comptroller related to the audits must be confidential, privileged, and proprietary, and may not be disclosed to any other person.

Current Law/Background:

9-1-1 Fee Collection

The 9-1-1 system is funded through the 9-1-1 Trust Fund. The fund is administered by the Department of Public Safety and Correctional Services and includes revenue from a State fee, local fee, and fee on prepaid wireless services (as well as investment earnings on the fund).

Each telephone company and CMRS provider in the State must act as a collection agent for the 9-1-1 Trust Fund, (with respect to both the State fee and the local additional charge) and must remit all money collected to the Comptroller on a monthly basis. A telephone company is entitled to credit 0.75% of the *State fees* it collects to cover the expenses of billing, collecting, remitting, and any related additional charge that it incurs.

ENSB must adopt procedures for auditing collection and remittance by CMRS providers. On request of the CMRS provider, and unless otherwise required by law, the information provided to ENSB must be confidential, privileged, and proprietary and may not be disclosed to any other person.

For more information on the 9-1-1 fee, as well as the State's current 9-1-1 system and recent legislation to modernize the system, please see the **Appendix – 9-1-1 Funding and Modernization**.

Tax Audits and Appeals

State law expressly authorizes a tax collector to examine and audit any tax return filed with the tax collector. Moreover, tax collecting agencies, such as the Comptroller and State

Department of Assessments and Taxation, are authorized to disclose a person's tax information to certain entities under specified circumstances.

State law also establishes various appeal rights and procedures for taxed and audited persons. Generally, a person may not appeal to the Tax Court until all available administrative remedies have been exhausted. Additionally, any decision by the Tax Court may be appealed to the circuit court.

State Expenditures: In order to perform the audits required by the bill, the Comptroller's Office needs additional staff. This estimate assumes that staff are hired immediately upon the bill's effective date and that the bill takes effect April 1, 2020 (pursuant to the bill's emergency status). Therefore, general fund expenditures increase by \$42,122 in fiscal 2020. This estimate reflects the cost of hiring two revenue field auditors to conduct audits and submit the annual report. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$32,024
Operating Expenses	<u>10,098</u>
Total FY 2020 State Expenditures	\$42,122

Future year expenditures reflect annualization, full salaries with annual increases and employee turnover, and ongoing operating expenses.

Under the bill, the Comptroller's Office is entitled to retain a portion of the State 9-1-1 fees to cover these anticipated costs, as discussed below.

State Revenues: Under current law, 9-1-1 service carriers who collect fees on behalf of the State keep 0.75% of the fees (\$297,000 annually), while under the bill they only keep 0.50% (\$198,000 annually), resulting in a net increase of \$99,000 annually in State revenues. However, as discussed above, the bill also requires the Comptroller's Office to conduct audits and entitles the office to retain 0.50% of the State 9-1-1 fees to cover its costs. Although the Comptroller is entitled to retain 0.5% of the fees (\$198,000 annually), for purposes of this estimate, it is assumed that the Comptroller only retains the amount needed to cover its costs each year. Overall, there is a decrease in special fund revenues deposited into the 9-1-1 Trust Fund and an increase in general fund revenues as the Comptroller's Office retains the fees needed to conduct the required audits.

Exhibit 1 summarizes the State revenue effect from fiscal 2020 through 2024. This estimate assumes that the bill takes effect April 1, 2020 (as discussed above), and that State 9-1-1 fee revenue averages \$39.6 million annually beginning in fiscal 2020 (based on estimates provided by ENSB).

Exhibit 1
Estimated Effect on State Revenues
By Fiscal Year

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
General Fund Revenues:	\$42,122	\$125,910	\$129,378	\$132,961	\$137,576
9-1-1 Trust Fund Revenues:	(17,372)	(26,910)	(30,378)	(33,961)	(38,576)
Net State Revenues:	\$24,750	\$99,000	\$99,000	\$99,000	\$99,000

Source: Emergency Number Systems Board, Department of Legislative Services

Additional Comments: The bill's provision that decreases the share of State 9-1-1 fee revenues that may be kept by 9-1-1 service carriers is also present in Chapters 375 and 376 of 2020; the provision increases the State's share of State 9-1-1 fee revenues by \$99,000 annually. These revenues can partially offset the bill's additional costs or partially offset the additional costs associated with Chapters 375 and 376, but not both.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 6 (Delegate Krebs, *et al.*) - Health and Government Operations.

Information Source(s): Comptroller's Office; Department of Public Safety and Correctional Services; Public Service Commission; Maryland Association of Counties; Harford, Montgomery, and Wicomico counties; Department of Legislative Services

Fiscal Note History: First Reader - January 13, 2020
rh/lgc Third Reader - March 12, 2020
Revised - Amendment(s) - March 12, 2020
Revised - Updated Information - June 22, 2020

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Appendix – 9-1-1 Funding and Modernization

Maryland's 9-1-1 System

Chapter 730 of 1979 established a statewide 9-1-1 system, as well as the Emergency Number Systems Board (ENSB) to oversee the new system. The legacy 9-1-1 model, which is based on a landline phone system, consists of local public safety access points (PSAPs) connected to an analog wireline phone network to deliver emergency calls via a circuit-switched architecture. However, 70% of 9-1-1 calls are now made from cell phones, and an increasing number are made via Voice over Internet Protocol networks, presenting a challenge as to how to process and obtain accurate caller location and phone number information.

As analog landline communication is phased out completely, state and local governments are preparing for “next generation” technology that will allow 9-1-1 centers to access not only more accurate information about caller location, but also other information that will assist emergency personnel in communicating with callers and responding more efficiently. This Next Generation 9-1-1 (NG 9-1-1) technology will allow PSAPs to receive text, chat, video, location, and various other types of data from a single 9-1-1 call. However, local governments face challenges both in maintaining existing 9-1-1 systems and in transitioning to NG 9-1-1 systems, primarily due to a lack of funding.

9-1-1 System Funding

The 9-1-1 system is funded through the 9-1-1 Trust Fund. The fund is administered by the Department of Public Safety and Correctional Services and includes revenue from a State fee, local fee, and fee on prepaid wireless services (as well as investment earnings on the fund).

Telephone companies, wireless carriers, and other 9-1-1 accessible service providers collect and remit monthly the State 9-1-1 fee and the county additional charge to the Comptroller for deposit into the fund. The State 9-1-1 fee is distributed to counties at the discretion of ENSB in response to county 9-1-1 system enhancement requests. The county additional charge, the prepaid wireless 9-1-1 fee remittances, and any investment earnings of the fund are all distributed quarterly to each county in prorated amounts, according to the level of fees collected in each jurisdiction. The State 9-1-1 fee and 25% of all collected prepaid wireless 9-1-1 fees may be used to reimburse counties for the cost of enhancing the 9-1-1 system. The county additional charge and the remaining 75% of all collected prepaid wireless 9-1-1 fees may be spent on maintenance and operating costs of 9-1-1 systems.

Commission to Advance NG 9-1-1 Across Maryland

Chapters 301 and 302 of 2018 established the Commission to Advance Next Generation 9-1-1 Across Maryland to study and make recommendations regarding next generation 9-1-1 emergency communication services. The commission's preliminary [report](#), released in November 2018, makes 23 recommendations regarding numerous issues, including, among other things, technology standards, cybersecurity, NG 9-1-1 implementation, staffing, and fees. The report emphasizes the importance of adjusting the State's 9-1-1 fee structure, concluding that "current 9-1-1 funding is grossly insufficient to support the current 9-1-1 system, let alone the updated NG 9-1-1 technology." The commission's final report is expected to be released during the 2020 legislative session.

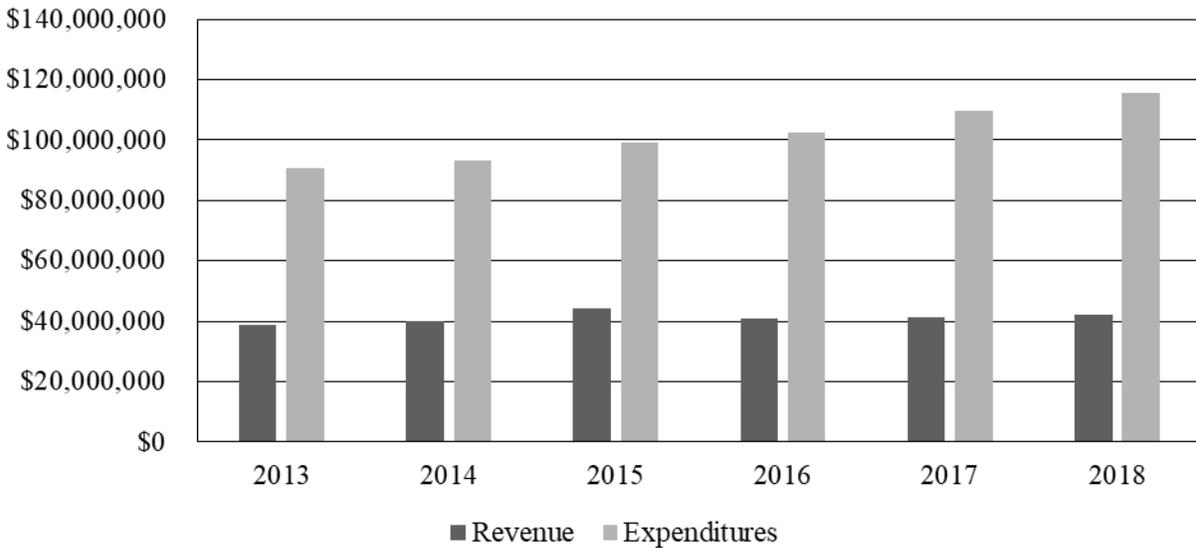
Recent Legislation to Modernize and Enhance the 9-1-1 System

Many of the commission's recommendations were addressed through Chapters 301 and 302 of 2019. Among other things, the Acts expanded the responsibilities of ENSB to include additional oversight and training for PSAPs, increased the 9-1-1 fees, and applied the fees to each separate outbound call voice channel capacity instead of each account.

Historically, county expenditures for 9-1-1 systems have consistently exceeded available fee revenues. **Exhibit 1** shows total 9-1-1 fee revenues and total 9-1-1 operating expenditures per fiscal year from fiscal 2013 to 2018 (the most recent publicly available data). Across all counties, in fiscal 2018, fee revenues covered 36.3% of operating costs. However, the percentage of costs offset by revenues varied significantly by county in that year, as shown in **Exhibit 2**. For example, only 9.7% of Dorchester County's costs were offset by fee revenues, while in Anne Arundel County, 55.7% of costs were offset. To address this shortfall, Chapters 301 and 302 modified the fees in the following manner:

- the State 9-1-1 fee and local 9-1-1 fee now both apply to each separate outbound call voice channel capacity (*i.e.*, lines), instead of each account, as specified;
- the State 9-1-1 fee was increased from \$0.25 per month to \$0.50 per month; and
- a local government is authorized to temporarily increase its local 9-1-1 fee under specified circumstances; combined with the existing local 9-1-1 fee, the maximum amount a local government may charge is increased from \$0.75 per month to \$1.50 per month.

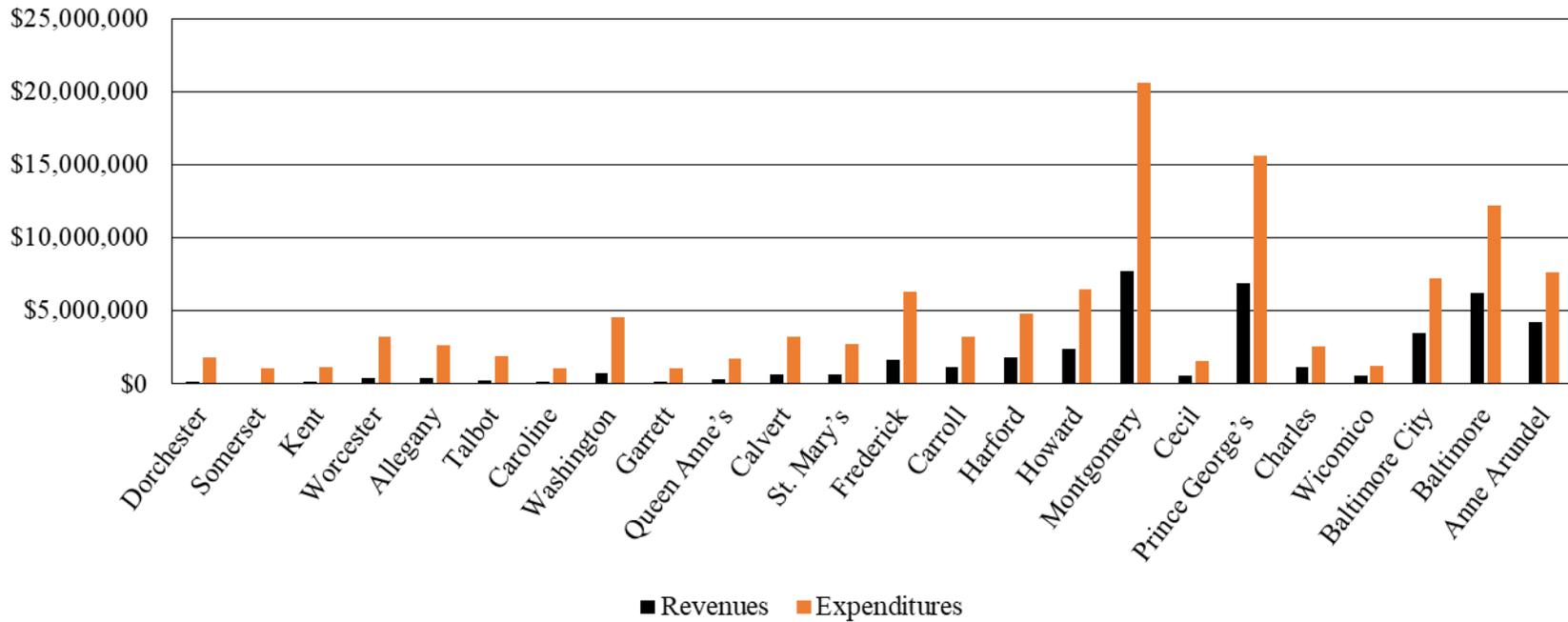
Exhibit 1
Total County 9-1-1 Fee Revenue and Operational Expenditures
Fiscal 2013-2018



Note: Prepaid wireless 9-1-1 fee revenues were first collected in fiscal 2014. County operating expenditures are costs as reported by county-selected independent auditors and typically include 9-1-1-related personnel salaries and benefits, recurring maintenance and service fees, mapping maintenance and updates, network associated fees, and capital expenditures not covered by the Emergency Number Systems Board.

Source: Emergency Number Systems Board annual reports (FY 2013-2019)

Exhibit 2
9-1-1 Fee Revenues and Operating Expenditures by County
Fiscal 2018



Source: Emergency Number Systems Board, 2018 annual report