

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1286 (Delegate Hornberger)
Health and Government Operations

Social Networks - Next Generation 9-1-1 and Public Service Announcements

This bill requires certain social networks, as defined by the bill, to (1) dedicate at least 2% of all advertisements on their platforms to public service announcements with content relevant to residents of the State and (2) pay a social network 9-1-1 fee of \$1.25 (payable monthly) to the 9-1-1 Trust Fund for each unique monthly State visitor or user, as specified.

Fiscal Summary

State Effect: Special fund revenues for the 9-1-1 Trust Fund increase significantly beginning in FY 2023 due to the social network 9-1-1 fee; the Comptroller retains 0.5% to cover anticipated administrative expenses. Although the bill does not require additional spending from the 9-1-1 Trust Fund, the additional special funds are anticipated to be disbursed to local governments and used for authorized purposes pursuant to current law. Although unclear, general fund revenues may increase to the extent unused fee revenues retained by the Comptroller revert to the general fund.

Local Effect: Although the bill does not directly affect local governments, revenues and expenditures increase significantly as social network 9-1-1 fee revenue is ultimately disbursed from the 9-1-1 Trust Fund to the counties (including Baltimore City) and used for authorized purposes.

Small Business Effect: None.

Analysis

Bill Summary: “Social network” means a public-facing website or digital application that is *primarily* engaged in the business of enabling peer-to-peer communication by direct messaging between two visitors or users.

The bill’s requirements generally apply to a social network that has 500,000 or more unique monthly State visitors or users for a majority of months during the immediately preceding 12 months. A visitor or user who accesses more than one website or digital application with a single account must be considered one unique visitor if each of the websites or digital applications are owned by the same entity and share the same account information, as specified. A social network that meets these requirements must:

- dedicate at least 2% of all advertisements on its platform to public service announcements with content relevant to residents of the State; and
- pay a 9-1-1 social network fee equal to \$1.25 for each unique monthly State visitor or user; the social network 9-1-1 fee is payable on the last day of each month, and the fee due must be based on the total number of unique monthly State visitors for the prior month.

The Comptroller must act as a collection agent for the 9-1-1 social network fee and deposit the money collected into the 9-1-1 Trust Fund. The Comptroller may retain 0.5% of the 9-1-1 social network fee to cover the expenses of billing, collecting, and keeping records. The Comptroller must (1) keep records of the fees collected and deposited for at least four years after the fee is collected; (2) develop and distribute informational materials to social networks regarding proper payment of the fee; and (3) adopt regulations to implement the bill.

Current Law:

Maryland’s 9-1-1 System and the Maryland 9-1-1 Board

The State’s 9-1-1 system operates primarily through public safety answering points (PSAPs), which are generally owned and operated by local governments. 9-1-1 specialists working within PSAPs answer, redirect, and take action on 9-1-1 calls received based on the location of the originating 9-1-1 call. State and local governments are preparing for “next generation” 9-1-1 technology that will allow PSAPs 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. Legislation has been enacted in recent years to, among other things:

- transfer the Maryland 9-1-1 Board that is responsible for administering the 9-1-1 Trust Fund and overseeing the State’s 9-1-1 system from the Department of Public Safety and Correctional Services to the Maryland Department of Emergency Management;
- expand the uses of the 9-1-1 Trust Fund to include providing funding for 9-1-1 specialist training activities; and
- increase funding for the State’s 9-1-1 system.

The Maryland 9-1-1 Board’s other responsibilities include (1) dispersing funds to local governments from the 9-1-1 Trust Fund for authorized costs; (2) reviewing and approving or disapproving requests for reimbursement of the costs of enhancing 9-1-1 systems; (3) ensuring the inspection of PSAPs; (4) auditing counties to ensure that 9-1-1 trust funds are being used for authorized purposes; and (5) establishing training standards for PSAP personnel based on national best practices and related to Next Generation 9-1-1.

9-1-1 Trust Fund – State and Local Fees

The 9-1-1 Trust Fund is funded through a State 9-1-1 fee and county 9-1-1 fee. Telephone companies, wireless carriers, and other 9-1-1 accessible service providers collect and remit the fees monthly to the Comptroller for deposit into the fund. The State 9-1-1 fee is distributed to counties at the discretion of the Maryland 9-1-1 Board in response to county 9-1-1 system enhancement requests. The county fee, 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.

State Fiscal Effect:

Revenues from the New Social Network 9-1-1 Fee

Special fund revenues for the 9-1-1 Trust Fund increase significantly beginning in fiscal 2023 due to the social network 9-1-1 fee established by the bill. A precise estimate is difficult to quantify because detailed user information is generally considered proprietary by social network companies, and some social networks may not be subject to the fee because they do not meet the definition of “social network” established by the bill. For example, YouTube may argue that it is not *primarily* engaged in the business of enabling peer-to-peer communication between two visitors since it is primarily used to widely share pre-recorded videos. Even so, a recent study by the [Pew Research Center](#) is instructive in determining the magnitude of the bill’s potential impact. Specifically, in 2021, the Pew Research Center estimated that:

- 81% of U.S. adults regularly use YouTube;

- 69% of U.S. adults regularly use Facebook;
- 40% of U.S. adults regularly use Instagram;
- 31% of U.S. adults regularly use Pinterest;
- 28% of U.S. adults regularly use LinkedIn; and
- 23% of U.S. adults regularly use Twitter.

Given the State’s population of approximately six million people, and assuming that State users are at least similar to the national trend estimated by the Pew Research Center, each of these social networks may be subject to the fee, resulting in tens or hundreds of millions of dollars in annual special fund revenues from the 9-1-1 social network fee. As provided by the bill, after the Comptroller retains 0.5% to cover related administrative costs (discussed below), fee revenue is deposited into the 9-1-1 Trust Fund.

For illustrative purposes only, using Facebook as an example, 69% of the State’s population is approximately 4.1 million people. If Facebook were to pay the social network 9-1-1 fee for each of these people, State revenues would increase by \$62.1 million. Of that amount, \$310,500 (0.5%) would be retained by the Comptroller, and \$61.8 million (99.5%) would be deposited into the 9-1-1 Trust Fund. Additionally, a preliminary analysis completed by the Comptroller’s Officer that includes additional social networks potentially affected by the bill estimates total fee revenues of \$233.3 million in fiscal 2023 (\$232.1 million for the 9-1-1 Trust Fund and \$1.2 million retained by the Comptroller) increasing to \$285.5 million in fiscal 2027 (\$284.1 million for the 9-1-1 Trust Fund and \$1.4 million retained by the Comptroller).

Comptroller’s Office - Administrative Costs

The Comptroller’s Office advises that the bill’s method for determining the tax base from which fees can be drawn is entirely unique in the current State tax system. The Comptroller needs a full team of auditors, with support staff, to ensure compliance from social network companies and accuracy with the fees that are paid. Therefore, special fund expenditures increase by \$537,670 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring nine full-time staff, including auditors, accountants, revenue examiners, and a tax consultant. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	9.0
Salaries and Fringe Benefits	\$471,583
Operating Expenses	<u>66,087</u>
Total FY 2023 Administrative Expenditures	\$537,670

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. These costs are anticipated to be fully offset by the significant fee revenues retained by the Comptroller, as discussed above. (For purposes of this analysis, it is assumed that the fee revenues retained by the Comptroller are treated as special fund revenues, as they are for a dedicated purpose.)

Because the bill authorizes the Comptroller to retain 0.5% of the fees it collects, it is unclear what happens to any fee revenues retained by the Comptroller in excess of what is required to cover the expenses of billing, collecting, and keeping records. To the extent any such revenues revert to the general fund at the end of the fiscal year, general fund revenues increase.

Anticipated 9-1-1 Trust Fund Spending

As noted above, tens of millions of dollars, if not hundreds of millions of dollars, in special fund revenues are anticipated for the 9-1-1 Trust Fund from the social network 9-1-1 fee. Since the bill does not specify a distribution for the fee revenues, the bill does not require additional spending from the 9-1-1 Trust Fund. Nevertheless, the Maryland 9-1-1 Board advises that it plans to disburse the funds in the same manner that prepaid wireless fees are treated: 25% are kept by the fund for statewide purposes, and 75% are disbursed to the counties.

Local Fiscal Effect: Although the bill does not directly affect local governments, as noted above, tens of millions of dollars, if not hundreds of millions of dollars, in special fund revenues for the 9-1-1- Trust Fund are anticipated from the social network 9-1-1 fee, and the Maryland 9-1-1 Board plans to disburse 75% of the additional fee revenue to counties (including Baltimore City) for the purposes authorized under current law.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Emergency Management; Comptroller's Office; Caroline and Prince George's counties; Pew Research Center; Department of Legislative Services

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