

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 933

(Delegate Feldmark, *et al.*)

Health and Government Operations

Budget and Taxation

Behavioral Health Crisis Response Services - 9-8-8 Trust Fund Fees

This bill establishes a State 9-8-8 fee with a structure and application nearly identical to the structure and application for the State’s 9-1-1 fee. The 9-8-8 fee is set at \$0.25 and applied on specified 9-8-8 accessible services in Maryland (including on phonline subscribers beginning October 1, 2024, and prepaid wireless purchasers beginning July 1, 2027). Fee revenues accrue to the 9-8-8 Trust Fund (less small portions retained by “9-8-8 service carriers,” prepaid wireless sellers, and the Comptroller) to support the eligible uses of the fund (including related administrative expenses of the Comptroller). The Maryland Department of Health (MDH) must include information on 9-8-8 fees in an existing annual report. **The bill’s provisions related to prepaid wireless services take effect July 1, 2027.**

Fiscal Summary

State Effect: Special fund revenues increase by \$20.8 million in FY 2025 for the 9-8-8 Trust Fund. Although special fund expenditures may increase correspondingly, the bill does not require additional trust fund spending (thus, any such increase is not quantified below). General fund revenues increase by \$1.3 million in FY 2025 from the Comptroller’s retained fees; general fund expenditures increase correspondingly for administrative costs. General fund revenues and expenditures are likely reduced in the out-years, but not shown below due to the uncertain timing. State expenditures (all funds) increase, likely minimally, beginning in FY 2025 as State agencies pay 9-8-8 fees; this impact has not been quantified.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF Revenue	\$1.32	\$1.66	\$1.67	\$0.84	\$0.84
SF Revenue	\$20.75	\$26.01	\$26.11	\$27.06	\$27.17
GF Expenditure	\$1.32	\$1.66	\$1.67	\$0.84	\$0.84
SF Expenditure	-	-	-	-	-
GF/SF/FF/NB/HE Exp.	-	-	-	-	-
Net Effect	\$20.75	\$26.01	\$26.11	\$27.06	\$27.17

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

Local Effect: Local expenditures increase, likely minimally, to pay the fees; local revenues and expenditures may increase significantly for jurisdictions that provide behavioral health crisis response services to the extent additional monies in the trust fund are used for that purpose.

Small Business Effect: Minimal.

Analysis

Bill Summary:

State 9-8-8 Fee for Service Carriers and Telephone Companies – Effective October 1, 2024

The State 9-8-8 fee for switched local exchange access services, commercial mobile radio services (CMRS), or other 9-8-8 accessible services is established at \$0.25 per month payable when the bill for the specified service is due. However, a subscriber who is enrolled in the federal Lifeline program may not be required to pay a 9-8-8 fee. Each telephone company and 9-8-8 service carrier must act as a collection agent for the fund with respect to 9-8-8 fees and remit the collected 9-8-8 fees to the Comptroller on a monthly basis. A 9-8-8 service carrier (but not a telephone company) must keep records of collected 9-8-8 fees for at least four years after the fee is remitted and is entitled to retain 0.5% of the 9-8-8 fees it collects to cover specified administrative expenses (unlike with 9-1-1 fees for which *both* telephone companies and 9-1-1 service carriers must keep records, and *both* may retain 0.5% of the 9-1-1 fees collected for administrative expenses).

“9-8-8 service carrier” means a provider of CMRS or other “9-8-8 accessible service” (which includes a telephone service or other communications service that connects an individual who dials the digits 9-8-8 to an established public safety answering point (PSAP)) and does not include a telephone company.

The bill also establishes technical criteria for determining which telephone lines and services are subject to the 9-8-8 fee.

Prepaid Wireless Fee for 9-8-8 – Effective July 1, 2027

The State prepaid wireless fee for 9-8-8 is established at \$0.25 per “retail transaction” (which means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale) in the State. A seller must collect the prepaid wireless fee from the consumer unless the consumer is enrolled in the federal Lifeline program. A seller must report and remit all prepaid wireless fees collected to the Comptroller, as

specified, but is entitled to retain 3.0% of the prepaid wireless fees collected from consumers to cover administrative costs.

Specified audit and appeal procedures in current law under the Tax-General Article for the sales and use tax apply to the collection and remittance of prepaid wireless fees. The seller is liable for remitting all prepaid wireless fees it collects from consumers; otherwise, the prepaid wireless fee is the liability of the consumer (not the seller or provider). The bill also establishes criteria for the purposes of determining whether a retail transaction is deemed to have occurred in the State for the purposes of assessing a prepaid wireless fee.

The State, a political subdivision, or an intergovernmental agency may not impose a tax, fee, surcharge, or other charge for 9-8-8 funding purposes on a provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless services.

Comptroller Responsibilities

The Comptroller must:

- distribute 9-8-8 fee revenues to an administrative cost account in the amount necessary for the Comptroller to administer the fees and to cover the expense of conducting audits; however, the amount may not exceed (1) for fiscal 2025 through 2027, 6.0% of 9-8-8 fees collected and (2) beginning in fiscal 2028, 3.0% of the 9-8-8 fees collected;
- after making the required distribution to the administrative cost account, deposit the remitted 9-8-8 fees into the 9-8-8 Trust Fund;
- adopt procedures for auditing 9-8-8 fee collection and remittance by telephone companies and CMRS providers; and
- adopt regulations for implementing the 9-8-8 fees.

Liability Immunity

A CMRS provider that pays or collects 9-8-8 fees as specified or a provider or seller of prepaid wireless services has the same immunity from liability for transmission failures as that approved by the Public Service Commission for local exchange telephone companies, as specified.

Maryland Department of Health – Report

MDH must include additional information in an existing report due December 1 each year, including (1) beginning in 2024, information on the amount of funds collected from the State 9-8-8 fee for switched local exchange access services, CMRS, or other

9-8-8 accessible services and (2) beginning in 2027, information on the amount of funds collect from the State 9-8-8 fee for prepaid wireless.

Current Law:

9-8-8 Trust Fund

Under Chapters 145 and 146 of 2022 and the federal National Suicide Hotline Designation Act of 2020, MDH designated 9-8-8 as the State's behavioral health crisis hotline on July 16, 2022.

Chapters 145 and 146 also established the 9-8-8 Trust Fund to provide reimbursement for costs associated with designating and maintaining 9-8-8 as the universal telephone number for a national suicide prevention and mental health crisis hotline and developing and implementing a statewide initiative for the coordination and delivery of the continuum of behavioral health crisis response services. The fund may also be used for behavioral health crisis response services in the State, including (1) crisis call centers; (2) mobile crisis team services; (3) crisis stabilization centers; and (4) other acute behavioral health care services. The fiscal 2023 budget included \$5.0 million in general funds for costs related to 9-8-8 implementation. Per Chapters 145 and 146, the Governor was required to include \$5.5 million for the fund in the annual budget bill for fiscal 2024. As subsequently mandated by Chapters 260 and 261 of 2023, a general fund appropriation of \$12.0 million is included in the fiscal 2025 budget, as passed by the General Assembly, for the fund.

MDH administers the fund and must submit a report to specified committees of the General Assembly by December 1 each year that includes (1) the amount of funds transferred and distributed from the fund; (2) the additional services provided by the funding in each local jurisdiction; (3) the amount of any unspent funds in the fund; and (4) the reasons why any unspent funds were not expended.

The fund is a special, nonlapsing fund consisting of money appropriated to it in the State budget, interest earnings of the fund, and any other money accepted for the benefit of the fund. Money expended from the fund is supplemental to and is not intended to supplant funding that would otherwise be appropriated for the fund's purpose. The fund is subject to audit by the Office of Legislative Audits pursuant to the State Government Article.

9-1-1 Trust Fund and 9-1-1 Fees

The State's 9-1-1 system operates primarily through 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. PSAPs and the State's 9-1-1 system are funded from the 9-1-1 Trust Fund.

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.

The 9-1-1 fee is collected on the same services as the 9-8-8 fee established by the bill using a near-identical regulatory framework with one notable exception. For the 9-1-1 fee, a telephone company may retain 0.5% of the 9-1-1 fees it collects to cover specified administrative expenses; however, a telephone company may not retain any portion of the 9-8-8 fee under the bill.

State Fiscal Effect:

Maryland Department of Health

Based on information provided by the Comptroller's Office, which also administers the State's 9-1-1 fees, special fund revenues for the 9-8-8 Trust Fund within MDH increase by \$20.8 million in fiscal 2025 (which accounts for the bill's October 1, 2024 effective date for certain provisions. This reflects a total of \$22.1 million remitted to the Comptroller for the 9-8-8 fee on phonenumber subscriptions, with \$1.3 million retained by the Comptroller for specified administrative costs, as authorized by the bill. **Exhibit 1** shows the general and special fund revenue effects from the collection of 9-8-8 fees under the bill in fiscal 2025 through 2029. Although additional funding is available, the bill does not *require* additional spending from the trust fund. Accordingly, the amount and timing for increased expenditures from the trust fund are not reflected in this analysis. Nevertheless, special fund expenditures each year could increase to correspond to the additional revenues received.

MDH advises that it requires two part-time staff – one to complete the report required by Chapters 145 and 146 and one to track the funds remitted by the Comptroller) at a cost of approximately \$78,492 in special funds beginning in fiscal 2025; the Department of Legislative Services (DLS) disagrees, as one full-time program administrator was accounted for in the fiscal and policy note for the legislation requiring the \$12.0 million appropriation in fiscal 2025. Assuming MDH obtained authorization for the additional position pursuant to Chapters 260 and 261, DLS advises that additional personnel are not necessary as a result of this bill alone.

Exhibit 1
9-8-8 Fee Revenue Collections and Distributions
Fiscal 2025-2029
(\$ in Millions)

	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
Total 9-8-8 Fees Collected	\$22.1	\$27.7	\$27.8	\$27.9	\$28.0
Less Administrative Cost Allocation	<u>1.3</u>	<u>1.7</u>	<u>1.7</u>	<u>0.8</u>	<u>0.8</u>
Amount Remitted to 9-8-8 Trust Fund	\$20.8	\$26.0	\$26.1	\$27.1	\$27.2

Notes: For purposes of this analysis, fees retained by the Comptroller and allocated to the administrative cost account are treated as general funds; the balance of fees are special funds and remitted to the 9-8-8 Trust Fund. Fiscal 2025 numbers account for the bill’s October 1, 2024 effective date for phonenumber subscription fees. Total 9-8-8 fees include phonenumber subscription fees only in fiscal 2025 through 2027 and, beginning in fiscal 2028, both phonenumber subscription and prepaid wireless purchase fees. 9-8-8 fees retained by the Comptroller for administrative costs reflect 6.0% of total 9-8-8 fees collected in fiscal 2025 through 2027 and, beginning in fiscal 2028, 3.0% of total 9-8-8 fees collected.

Source: Comptroller; Department of Legislative Services

Comptroller

General fund revenues for the Comptroller increase from retained 9-8-8 fees (6.0% in fiscal 2025 through 2027 and 3.0% beginning in fiscal 2028) for associated administrative costs – by \$1.3 million in fiscal 2025, increasing to \$1.7 million in fiscal 2026 and 2027 and increasing to a lesser extent by \$836,771 in fiscal 2028 and \$840,377 in fiscal 2029. To the extent that fewer revenues are needed by the Comptroller to cover administrative costs in future fiscal years (once upgrades to its Compass system have been fully covered), general fund revenues increase to a lesser extent to cover the ongoing personnel costs discussed below, and special fund revenues and expenditures increase correspondingly as that additional revenue is remitted to the 9-8-8 Trust Fund.

General fund expenditures are assumed to increase by \$1.3 million in fiscal 2025 (equivalent to the 9-8-8 fee revenues retained by the Comptroller for administrative expenditures). This estimate includes personnel expenditures of at least \$117,367 in fiscal 2025, which reflects the bill’s October 1, 2024 effective date for phonenumber subscription fees. This estimate is based on hiring two revenue examiners to (1) collect and deposit the remitted 9-8-8 fees to the fund; (2) adopt and implement procedures for auditing fee collection and remittance; and (3) adopt regulations for implementing the fee. It

includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Fees collected by the Comptroller are more than sufficient to cover these staffing costs.

Positions	2.0
Salaries and Fringe Benefits	\$102,855
Operating Expenses	<u>14,512</u>
FY 2025 Comptroller Personnel Expenditures	\$117,367

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The Comptroller also advises that *at least* \$2.0 million in computer programming expenditures are expected to be incurred in fiscal 2025 to add the 9-8-8 fee into the Comptroller's Compass system. DLS is unable to independently verify the Comptroller's estimate at this time but acknowledges that contractual computer programming costs are likely significant. Accordingly, general fund expenditures for the Comptroller in fiscal 2025 are assumed to equal the retained 9-8-8 fee revenues of \$1.3 million to cover administrative costs; to the extent that programming costs in fiscal 2025 exceed revenues in that year, this analysis further assumes that the Comptroller can use retained 9-8-8 fees in the out-years to cover the costs of upgrading Compass. Once the Comptroller has retained sufficient 9-8-8 fees to fully cover its costs for upgrading Compass (likely accomplished between fiscal 2027 and 2029), general fund revenues from the retained 9-8-8 fees and general fund administrative expenditures are reduced (which, given the uncertain timing, is not reflected in this analysis).

State Agency Expenditures for Communications

State expenditures (all funds) for communications increase minimally beginning in fiscal 2025 from the imposition of the new 9-8-8 fee on any telephone service or other communications service that connects an individual dialing the digits 9-8-8 to an established PSAP. For example, the Maryland Department of Transportation (MDOT) estimates that Transportation Trust Fund expenditures increase by \$13,053 annually based on the number of mobile accounts within MDOT. The impacts to other State agencies have not been quantified at this time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 974 (Senator Guzzone) - Budget and Taxation.

Information Source(s): Maryland Department of Emergency Management; Comptroller's Office; Maryland Department of Health; Maryland Department of Transportation; Public Service Commission; Department of Legislative Services

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