

**9-1-1 Funding in South Dakota:
Current Status and Future Challenges**

Prepared by

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I. Introduction

In 2008, the South Dakota Legislature created the South Dakota 9-1-1 Coordination Board (hereinafter “Board”) to “set minimum standards for operation of public safety answering points . . . and oversee the coordination of 911 services within the state.”¹ While other efforts have been made in the past to bring a level of coordination and oversight to the state’s 9-1-1 system², the establishment of the Board was seen by many in the state as a welcome opportunity to evaluate the current state of 9-1-1 services in South Dakota.

One of the Board’s first tasks was to develop comprehensive administrative rules governing the operation of a public safety answering point (hereinafter “PSAP”). After a lengthy rulemaking process in which input was sought and received from various public safety stakeholders, the Board promulgated the first set of minimum operational, technical, and financial standards for the operation of a PSAP in state history.³ While significant, this was merely the beginning of the Board’s duties as tasked by the Legislature.⁴

¹ SDCL 34-45-18, which reads in full: “There is hereby established the South Dakota 911 Coordination Board. The board shall set minimum standards for operation of public safety answering points, determine criteria for reimbursement for nonrecurring costs and the amount of reimbursement, and oversee the coordination of 911 services within the state.”

² For example, the South Dakota 911 Coordinated Statewide System Task Force and the 911 Stakeholders Group were predecessors of the South Dakota 911 Coordination Board.

³ See ARSD ch. 50:02:04, available at: <http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=50:02:04>

⁴ SDCL 34-45-20 establishes the duties of the Board and reads as follows:

The board shall:

- (1) Evaluate all of the current public safety answering points and systems throughout the State of South Dakota for their capability to adequately and efficiently administer systems;
- (2) Develop plans for the implementation for a uniform statewide 911 system covering the entire state or so much as is practicable;
- (3) Monitor the number and location of public safety answering points or systems and the use of 911 emergency surcharge funds in their administrative and operational budgets;
- (4) Develop criteria and minimum standards for operating and financing public safety answering points;
- (5) Develop criteria for the eligibility and amount of reimbursement of recurring and nonrecurring costs of public safety answering points or systems;

In April of 2010, the Board turned its attention to 9-1-1 funding. The Board, in conjunction with the Department of Legislative Audit, developed a series of financial reporting forms that were distributed to local governments for completion on or before April 30, 2010. The required financial reports were crafted to allow the Board to answer basic questions about how the 9-1-1 service in South Dakota is funded. A statewide survey of the collection and use of 9-1-1 emergency surcharge had never been performed, and such an undertaking was going to be complicated due to the wide variety of local entities across the state that have assumed responsibility for the provision of 9-1-1 services in their respective jurisdictions. While this initial effort at statewide data collection was fraught with difficulty and unforeseen problems, substantial compliance was achieved and an independent analysis of the data was performed. The details of this independent analysis can be found in Section III below.

The purpose of this report is threefold. Section II will provide an overview of the history of 9-1-1 funding in South Dakota, along with a brief summary of 9-1-1 funding nationwide. Section III will detail the independent analysis of calendar year 2009 9-1-1 emergency surcharge collection that was commissioned by the Board. Also, Section III will provide preliminary data for calendar year 2010 which is currently being collected and analyzed by the Board. Finally, Section IV will discuss the key points that were revealed during the Board's initial review of 9-1-1 funding in South Dakota and offer some key facts for the Legislature to consider during future legislative sessions.

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- (6) Develop criteria for the implementation of performance audits of the use of the 911 fees utilized in the operation of the 911 system. The audit shall be conducted by the Department of Legislative Audit and shall be presented to the board and the Legislature; and
 - (7) Report annually to the Governor and the Legislature about the operations and findings of the board and any recommendations for changes to 911 service in the state.

II. History of the 9-1-1 Emergency Surcharge in South Dakota

Dedicated funding for the 9-1-1 service in South Dakota was first enacted in 1989.⁵ At that time, the Legislature established a maximum “monthly uniform charge in an amount not to exceed seventy-five cents per service user line.”⁶ Pursuant to state law, this “monthly uniform charge” (hereinafter “9-1-1 emergency surcharge”) is collected by the service providers from their customers and remitted directly to the governing body⁷ or, in the case of prepaid wireless service, to the state 9-1-1 Coordination Fund.⁸ These monies are to be used by governing bodies to fund “any nonrecurring or recurring costs for the installation, maintenance, or operation of a 911 system....”⁹

Currently, all governing bodies in South Dakota that assess the 9-1-1 emergency surcharge have set the rate at the maximum allowable amount of seventy-five cents per line.¹⁰ State law requires governing bodies to review the current charge at least once every calendar year to determine whether adjustments to the rate need to be made to cover anticipated expenditures.¹¹

While the maximum allowable 9-1-1 emergency surcharge has never been increased since its inception,¹² increased revenues as a result of the rapid growth in the popularity of cellular phones and other telecommunications options such as Voice over Internet Protocol (VoIP) has resulted in the only noticeable increase in 9-1-1 emergency surcharge revenue and

⁵ SDCL 34-45-4.

⁶ Id.

⁷ SDCL 34-45-1(5) defines “governing body” as “the board of county commissioners of a county or the city council or other governing body of a county or municipality or the board of directors of a special district.”

⁸ SDCL 34-45-8.

⁹ SDCL 34-45-3.

¹⁰ Information provided by the SD 9-1-1 Coordinator.

¹¹ SDCL 34-45-10.

¹² Several of the tribal governments in South Dakota have established a maximum allowable rate in excess of seventy-five cents. For example, the Cheyenne River Sioux Tribe assesses a monthly rate of \$3.00 on all access lines within the Cheyenne River Sioux Reservation boundaries.

has somewhat mitigated the need to reevaluate the current maximum rate.¹³ However, 9-1-1 funding has come to the forefront for local officials who are faced with increasing demand for 9-1-1 service, rising personnel costs, and rapidly-evolving technological requirements to operate a PSAP. Increasing costs to provide the 9-1-1 service, along with the impact on local general fund coffers brought about by the ongoing national recession, has led many in South Dakota to question whether the current maximum rate is sufficient to meet current and future funding needs without substantial support from other sources of governmental revenue. Recent legislative sessions have witnessed various attempts to increase the maximum allowable 9-1-1 emergency surcharge¹⁴, but these efforts have not been successful, arguably due to an overall lack of information concerning 9-1-1 funding in South Dakota. Moreover, concerns about improper use of 9-1-1 emergency surcharge revenues have hindered past efforts to increase the maximum rate.¹⁵

Ultimately, this knowledge void and the numerous uncertainties surrounding 9-1-1 funding in South Dakota prompted the Legislature to create the 9-1-1 Coordination Board. Through legislation and administrative rulemaking, the Board has been able to provide clarity to how the 9-1-1 emergency surcharge can be utilized.¹⁶ Filling the knowledge void regarding

¹³ According to a 2008 Harris Interactive Survey of 9,132 U.S. adults, eighty-nine percent of adults have a wireless or cell phone. Seventy-nine percent of adults have a wireline phone, and approximately fifteen percent use VoIP. Seventy-five percent of U.S. adults use multiple approaches to making calls. Available at: <http://www.cellular-news.com/story/30323.php>

¹⁴ For example, see SB159, introduced during the 86th Legislative Session, available at: <http://legis.state.sd.us/sessions/2011/Bills/SB159P.pdf>. SB159 would have increased the maximum allowable 9-1-1 emergency surcharge to \$1.50.

¹⁵ Information provided by SD 9-1-1 Coordinator.

¹⁶ See, e.g., ARSD §§ 50:02:04:08, 50:02:04:09, and 50:02:04:10; See also HB1014, passed during the 86th Legislative Session (amends SDCL 34-45-4 to clarify that the 9-1-1 emergency surcharge shall only be used on allowable expenditures as determined by the Board.).

9-1-1 Funding in South Dakota: Current Status and Future Challenges

9-1-1 funding is an altogether different undertaking, but one that the Board has begun to address and will continue to analyze so future legislatures can make informed policy decisions in the area of 9-1-1 services and funding.

Before moving into a discussion of the independent analysis of calendar year 2009 9-1-1 emergency surcharge collection, it will be useful to the reader to have a comparison of South Dakota’s maximum allowable 9-1-1 emergency surcharge to other states in the surrounding area. As of August, 2010, the maximum monthly rate in South Dakota’s bordering states was as follows:

| State | Wireline | Wireless | VoIP |
|--------------|-----------------|-----------------|-----------------|
| Iowa | \$0.45 - \$1.50 | \$0.65 | N/A |
| Minnesota | \$0.75 | \$0.75 | \$0.75 |
| Montana | \$1.00 | \$1.00 | \$1.00 |
| Nebraska | \$0.50 - \$1.00 | \$0.50 - \$0.70 | N/A |
| North Dakota | \$1.00 - \$1.50 | \$1.00 - \$1.50 | \$1.00 - \$1.50 |
| Wyoming | \$0.75 | \$0.75 | N/A |

Nationally, the maximum monthly rate varies from a low of \$0.20 (Arizona) to a high of \$5.34 (West Virginia – varies by county). Many states assess local and state surcharges (e.g. Maryland, Michigan and Washington), while others assess a percentage of total monthly billing (e.g. California).¹⁷

¹⁷ Monthly rate information provided by the National Emergency Number Association (NENA), August, 2010.

III. Independent Analysis of 2009 Annual 9-1-1 Emergency Surcharge Collection

As described in Section I, the Board began its first data collection effort in April of 2010. Multiple reporting forms were developed and distributed to local officials for completion.¹⁸ After several months of data collection, the Board made the determination that an analysis of the data by an independent third-party would be preferable to an internal review.¹⁹ The Board issued a Request for Proposals in August of 2010²⁰ and eventually contracted with Winbourne & Costas, Inc., a Washington, D.C.-based 9-1-1 management and technology consulting firm (hereinafter “consultant”).

The Board provided the consultant with a total of 182 individual reports, which represented approximately 85 percent of the expected reports. Based on these reports, the Board tasked the consultant with answering a number of questions concerning 9-1-1 funding in South Dakota. What follows is a summary of the findings.

A. How much does the 9-1-1 system in South Dakota cost annually?

To answer this question, the sum of total expenditures listed on the 2009 Annual Reports was calculated to derive the annual cost of providing 9-1-1 services in South Dakota. Based on this calculation, the total amount of 9-1-1 expenditures for calendar year 2009 was **\$16,756,090.**²¹

¹⁸ Four reports were distributed for completion: (1) 2009 Annual Report; (2) 2009 Employee Roster; (3) 2010 PSAP Budget Report; and (4) 2010 Employee Budgeted Report. Depending on the entity, completion of each report may or may not have been required. In total, 214 reports were expected to be completed.

¹⁹ Nevertheless, the Board chose to conduct an internal review through its Funding Subcommittee for comparison purposes. Any substantial deviations between the independent analysis and the Board’s internal analysis will be noted throughout Section III.

²⁰ State of South Dakota Request for Proposals #25331.

²¹ The Board’s internal analysis calculated total expenditures at **\$16,756,090**, whereas the consultant calculated total expenditures at **\$21,535,858.35**. The reason for the significant deviation is believed to be the consultant’s failure to properly eliminate duplicate expenditures reported by host counties and the counties that contract for 9-1-1 services with the host.

B. How much revenue does the 9-1-1 emergency surcharge generate annually?

To answer this question, the sum of 9-1-1 emergency surcharge revenues listed on the 2009 Annual Reports were calculated to derive the total amount of revenue generated by the 9-1-1 emergency surcharge. Based on this calculation, the total amount of 9-1-1 emergency surcharge revenue for calendar year 2009 was **\$8,138,571.83.**²²

C. What would the monthly rate need to be for the 9-1-1 emergency surcharge to provide one hundred percent funding of the 9-1-1 system from surcharge alone?

To answer this question, the following calculation was performed:

- (1) Determine the annual fee collected per line:
(\$0.75 x 12 months = \$9.00/line)
- (2) Divide total annual surcharge revenue by annual fee to determine total number of lines: (\$8,138,571.83/\$9.00 = 904,286 lines)
- (3) Divide the total annual expenditures by the total number of lines to determine an annual cost per line: (\$16,756,090/904,286 = \$18.53)
- (4) Divide the annual cost per line by twelve months to determine a monthly rate: (\$18.53/12months = \$1.54 per line)

Based on this calculation, the monthly rate needed for the 9-1-1 emergency surcharge to provide one hundred percent funding of the 9-1-1 system from surcharge alone in calendar year 2009 was **\$1.54 per line.**²³

²² This figure agrees with the Board's internal analysis.

²³ Given the discrepancy in total expenditures noted between the independent analysis and the Board's internal analysis, the monthly per line rate is believed to be overstated by the consultant. Performing the same calculation with the consultant's total expenditure figure, the monthly rate needed in calendar year 2009 for the 9-1-1 emergency surcharge to provide one hundred percent funding of the 9-1-1 system from surcharge alone was **\$1.98 per line.**

D. What is the sum of total year-end balances in 9-1-1 Funds as reported on the 2009 Annual Reports?

The consultant was not tasked with answering this question; however, the Board conducted an internal analysis of the 2009 financial data to determine what the sum of total year-end balances in county and municipal 9-1-1 Funds was for calendar year 2009. To answer this question, the Board calculated the sum of total year-end balances in 9-1-1 Funds as reported on the 2009 Annual Reports. Based on this calculation, the total year-end fund balance of county/municipal 9-1-1 Funds at year-end 2009 was **\$8,442,628.74**.²⁴

E. What is the percentage of total 9-1-1 expenditures being funded with the 9-1-1 emergency surcharge?

This question was answered by the Board's internal analysis. Based on the Board's calculations, approximately **49 percent** of total 9-1-1 expenditures were funded with 9-1-1 emergency surcharge revenue in calendar year 2009. The remaining 51 percent of expenditures were funded with a combination of subsidies from host entities and other entities (47 percent) and other funding sources (4 percent).

F. Summary of preliminary analysis of calendar year 2010 financial reporting.

Based on a preliminary analysis of calendar year 2010 financial reporting, the following are approximates for total 9-1-1 emergency surcharge revenues and expenditures in 2010:

- Total 9-1-1 emergency surcharge revenues = **\$8,403,959**
- Total 9-1-1 expenditures = **\$15,256,877.93**
- Surcharge required in 2010 to finance entire cost of system = **\$1.36 per line**

²⁴ This figure may not be entirely comprised of 9-1-1 emergency surcharge revenue.

IV. Key points and next steps for 9-1-1 funding in South Dakota

Although the analysis of calendar year 2009 9-1-1 emergency surcharge collection data did not answer all of the questions regarding 9-1-1 funding that presently exist in South Dakota, the Board was able to gather much needed data and can offer a few key facts for the legislature to consider. Moreover, the Board learned many valuable lessons from its inaugural financial reporting effort which should lead to greater compliance rates and more complete data in the coming years.²⁵

Perhaps the most critical finding is the significant funding gap for 9-1-1 services in South Dakota. In 2009, less than 50 percent of the cost of the service was paid by the dedicated funding source provided for in state law. As a result, counties and municipalities were required to subsidize the 9-1-1 service from other sources of taxpayer dollars. If the 9-1-1 emergency surcharge is intended to cover the entire cost of the 9-1-1 service, the monthly rate would need to more than double from the current maximum rate of seventy-five cents per month. While the Board did observe considerable year-end balances being maintained in county and municipal 9-1-1 Funds, there is a recognition that these monies are often necessary for future nonrecurring costs, such as equipment and software upgrades and repairs, and to provide sufficient cash flow for month-to-month operations.

However, the Board does recognize that this report represents only a “snapshot” of the issue of 9-1-1 funding in South Dakota. Many factors will come into play over the next several years that could potentially affect 9-1-1 funding. For example, this report does not address 9-1-1 system efficiencies and other potential solutions that could ease the financial burden on local

²⁵ In order to achieve greater compliance in subsequent years, the Board substantially revised the reporting forms for calendar year 2010 to make the process easier for all parties. The Board has also implemented a more efficient review process to ensure missing or inaccurate information is collected from the submitting entity. Initial feedback on the changes has been positive and the Board will continue to make changes to the process as issues are discovered.

governments struggling to meet the rising costs of 9-1-1.²⁶ Conversely, this report does not discuss the inevitable migration to Next Generation 9-1-1 solutions which will undoubtedly impose significant financial burdens on both local governments and the State itself. In other words, 9-1-1 funding is and will continue to be an issue of utmost concern to the Board, who will continue to monitor and analyze the situation to ensure the legislature has the best available information when faced with policy decisions concerning the 9-1-1 emergency surcharge.

²⁶ Potential efficiencies and cost-saving solutions include, but are not limited to, virtual PSAP arrangements, systems and resource sharing, standardized training/service levels throughout the state, and identifying alternative funding sources.