This article appeared in the TR State Newswire for Friday, 24 January 2014.

NATIONAL -- Four states used 911 funds for other purposes in 2012

Four states said they used at least some of the 911 fees and charges that were collected in 2012 for non-911 purposes, down from six states the previous year, according to a report released by the FCC today.

The report, the fifth such annual document to Congress mandated by the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), details responses the Commission received from states, the District of Columbia, and Puerto Rico concerning how 911 funds were spent in the 2012 calendar year.

In response to its information request, the FCC's Public Safety and Homeland Security Bureau received responses from 49 states, D.C., and Puerto Rico. It did not receive responses from Arkansas and the following U.S. territories - American Samoa, Guam, Northern Mariana Islands, and the Virgin Islands.

"States reporting that they use 911/E911 funds for other purposes indicated that they use the collected money for a variety of matters, primarily related to other emergency first responder programs," the report said. "Two states, New York and Rhode Island, reported diverting collected funds to their state's General Fund." The Rhode Island funds diversion of $11.7 million represented 71% of the $16.5 million collected in fiscal year 2012, the report said. New York diverted 11% of the $190.3 million collected.

"Illinois reported that $10 million was legislatively transferred from the Wireless Services Emergency Fund in fiscal year 2013, but did not specify how the transferred money was used," the report added. "Illinois further indicated that approximately $6,665,500.00 borrowed from the state's Wireless Carrier Reimbursement Fund was repaid over the course of 2012." The nearly $16.7 million originally diverted by the state represented 24% of the $69.2 million collected.

"Kansas, which employs a hybrid funding mechanism allowing for state oversight over local 911 fee use, reported enforcement actions undertaken in response to the possible use of funds for purposes other than those designated in the state statute," the report added. "According to Kansas, of the $12,621,526.21 expenditures reported, a total of twenty-one expenditures were questioned. Kansas identified ten as legitimate expenditures, eight required reimbursement to the respective public safety answering point's ('PSAP's') 911 Fee Fund, and three were still pending resolution at the time Kansas submitted its report. Kansas states that once the remaining expenditures are finalized and reimbursed, no 911 Fee funds will have been expended outside of the allowable purpose."

The report added, "In short, at the state level for the year ending December 31, 2012, most states report that they used collected 911/E911 fees solely to fund 911/E911 services. Many of the remaining states use some 911/E911 fees for related expenses, such as to cover the administrative costs of collecting the fees, or for other public safety purposes (such as public safety radio communications)."

The report said that 17 states, D.C., and Puerto Rico collected 911/enhanced 911 fees at the state level, 10 collected them at the local level, and 22 collected them at both the state and local levels.

In its information request, the bureau asked states to provide details "on whether they classify expenditures on NG911 as within the scope of permissible expenditures for 911 or E911 purposes, and whether and how much they expended such funds in 2012."

"Of the states that indicated that their funding mechanism allows for NG911 funding, twenty-four states, the District of Columbia, and Puerto Rico indicated that they used 911 funds for NG911 programs in 2012," the report said. It said that "those twenty-four states, the District of Columbia and Puerto Rico spent approximately $97,367,543.46 on NG911 programs. Twelve states in which use of funds for NG911 purposes is allowed report they did not expend any funds on NG911-related programs."

In the five years since the FCC began compiling the report, the number of states diverting 911 funds for general fund purposes has decreased, from eight states in the 2009 report, 10 states in 2010, seven states in 2011, six states in 2012, and four states in the 2013 report released today.

The report also said that the Public Safety Bureau improved its data collection and analysis methods in the wake of a 2013 Government Accountability Office report said that it can do a better job of collecting information from states for the annual reports.

"Consistent with GAO's recommendation to use more closed-ended questions to obtain information from responding states, the Bureau has modified its information collection authorization under the Paperwork Reduction Act to include closed-ended questions in the annual information request," it said. "Additionally, the Bureau provided responders with electronic forms that can be filled out and returned by e-mail to ease the information collection burden. Finally, consistent with GAO's recommendation, this report includes a summary of reporting methodology that explains the Commission's interpretation of the NET 911 Act, and how the NET 911 Act determines whether or not a state is considered to be diverting 911/E911 fees."

The FCC today released a public notice seeking comment on the report. Comments are due Feb. 24 and replies March 25 in PS docket 09-14.

"Given the enduring public safety value of ensuring that consumers have access to emergency services through the devices, platforms, and applications they rely on for their everyday communications needs, we seek comment on respondents' expenditure of funds on NG911 systems and capabilities," the public notice said.

"What conclusions, however preliminary, can be drawn from the information submitted by respondents regarding the sufficiency of funding resources directed to the development and deployment of NG911 services?" the FCC asked. "Based on respondents' filings, are 911 and E911 funds being used to deploy NG911 systems and capabilities in a logical and sustainable fashion to ensure NG911 can meet the public's expectations for enhanced emergency response?. … Are NG911 systems being deployed consistently across the nation?"

The public notice also asked "how might the Commission improve its data collection to better capture the state of expenditures on NG911 systems by state and other jurisdictions?" It also sought views "on the collection and distribution of 911/E911 fees and charges in the non-responding jurisdictions."

In response to the report, Gigi Smith, president of the Association of Public-Safety Communications Officials-International, said her group "appreciates the FCC's diligence in producing informative reports on the important matter of states that divert 9-1-1 funds for other purposes. Further, we are pleased to see that the current report indicates a significant decrease over the past 5 years in the number of states that continue to divert these funds. However, we will be fully satisfied only when the FCC is able to report zero states misappropriating 9-1-1 funds."

The National Emergency Number Association said that it "is pleased that this reporting requirement appears to have had the desired effect: Fewer states reported diverting 9-1-1 fees to other purposes in 2012 than in the past. We are also pleased that the Commission has incorporated recommendations from GAO to improve its data collection methodology. We remain concerned, however, that the Commission is forced to rely on self reporting by the states, rather than examination of publicly-available primary source materials. NENA is committed to stamping out the diversion of 9-1-1 fees by legislators who would willingly undermine the safety of their constituents in order to fund programs unrelated to 9-1-1. These fees are collected to support 9-1-1 service, and should be spent to operate, maintain, or improve that service. Whether done overtly as in New York, Rhode Island, or Kansas, or by subtle changes to the definition of '9-1-1 service,' fee diversions lead to slower, less effective emergency response and enormous costs in lives and property." - Paul Kirby, paul.kirby@wolterskluwer.com