

# Allegan County Board of Commissioners



County Services Building  
3283 – 122<sup>nd</sup> Avenue  
Allegan, MI 49010  
269-673-0203 Main Office  
269-686-5331 Main Fax  
<http://www.allegancounty.org>

**Jim Storey, Chairperson**  
**Gale Dugan, Vice Chairperson**

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## **BOARD OF COMMISSIONERS MEETING – AGENDA** \*REVISION #1 – 3/9/21

Thursday, March 11, 2021 – 1PM

Pursuant to MCL 15.263a, the Board will conduct its meeting via electronic communications to prevent the spread of COVID.

Virtual Meeting – Connectivity Instructions **Attached**

DISTRICT 1  
Dean Kapenga  
616-218-2599  
dkapenga@  
allegancounty.org

1PM

### **CALL TO ORDER:**

**OPENING PRAYER:** Commissioner Mark DeYoung

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

**COMMUNICATIONS:** Attached

**APPROVAL OF MINUTES:** February 25, 2021

**PUBLIC PARTICIPATION:**

**ADDITIONAL AGENDA ITEMS:**

**APPROVAL OF AGENDA:**

**PRESENTATIONS:**

\*Consumers Energy Update—Derek Nofz, Community Affairs Manager

**PROCLAMATIONS:** None

**INFORMATIONAL SESSION:**

County Clerk/Register of Deeds—Bob Genetski

**ADMINISTRATIVE REPORTS:**

DISTRICT 2  
Jim Storey  
616-848-9767  
jstorey@  
allegancounty.org

DISTRICT 3  
Max R. Thiele  
269-673-4514  
mthiele@  
allegancounty.org

DISTRICT 4  
Mark DeYoung  
616-318-9612  
mdeyoung@  
allegancounty.org

### **CONSENT ITEMS:**

1. Motion to approve of claims paid and to incorporate into proceedings of the Board (3/5/21 & 3/12/21)

DISTRICT 5  
Tom Jessup  
269-637-3374  
tjessup@  
allegancounty.org

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### **ACTION ITEMS:**

1. None

DISTRICT 6  
Gale Dugan  
269-694-5276  
gdugan@  
allegancounty.org

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### **DISCUSSION ITEMS:**

1. Board of Commissioners—911 Fee Diversion (199-476)
2. Administration—extend COVID-19 Preparedness, Response and Safe Work Plan
3. \*Sheriff's Department—apply/accept Marine Slow No Wake Zone Enforcement Grant

DISTRICT 7  
Rick Cain  
269-744-7918  
rcain@  
allegancounty.org

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### **NOTICE OF APPOINTMENTS & ELECTIONS: N/A**

### **APPOINTMENTS:**

#### **Mission Statement**

“The Allegan County Board of Commissioners shall plan, develop, and evaluate the necessary policies and resources to ensure our county continues to progress and prosper”

1. Brownfield Redevelopment Authority
  - One Representative—term expired 12/31/2019
2. Solid Waste Planning Committee
  - Two General Public Representatives—term expired 12/31/20  
*Applications REC 2/24; 3/3*
  - One Environ. Int. Group Representative—term expired 12/31/20  
*Application REC 2/24*
  - One Solid Waste Industry Representative—term expired 12/31/19
  - One Solid Waste Industry Representative—term expired 12/31/20
  - One Township Representative—term expired 12/31/2019 *Application REC 2/24*
  - One City Representative—term expired 12/31/20 *Application REC 2/24*
  - One Industrial Waste Generator Representative—term expired 12/31/20
3. Tourist Council
  - Two Representatives—term expired 12/31/20

**ELECTIONS:**

1. Commission on Aging
  - One Senior Representative—term expires 12/31/22 *Application REC 2/24*
2. Economic Development Commission
  - One Downtown Representative—term expired 12/31/2019

**PUBLIC PARTICIPATION:**

**FUTURE AGENDA ITEMS:**

**REQUEST FOR PER DIEM/MILEAGE:**

**BOARDS AND COMMISSIONS REPORTS:**

**ROUND TABLE:**

**ADJOURNMENT:** Next Meeting – Thursday, March 25, 2021, 1:00PM **VIRTUAL MEETING UNLESS OTHERWISE NOTIFIED.**



# Allegan County Board of Commissioners Meeting

March 11, 2021

Connecting via Zoom Webinar



Allegan County  
3283 122<sup>nd</sup> Ave  
Allegan, MI 49010

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# STEP 2: Enter registration information

The screenshot shows a web browser window with the URL `zoom.us/webinar/register/WN_YneHxuk_SjqfnMwchbt/Eg`. The page title is "Webinar Registration".

Registration details:

- Topic: BOC Meeting - 4/9/2020
- Time: Apr 9, 2020 01:00 PM in Eastern Time (US and Canada)

Registration form fields (marked as required with an asterisk):

- First Name \*
- Last Name \*
- Email Address \*
- Confirm Email Address \*

Below the form is a reCAPTCHA box with the text "I'm not a robot" and a "reCAPTCHA Privacy - Terms" link. A blue button labeled "Join Webinar in Progress" is located below the reCAPTCHA box.

At the bottom of the page, there is a navigation menu with the following links:

- About
  - Zoom Blog
  - Customers
  - Our Team
  - Why Zoom
  - Features
  - Careers
  - Integrations
  - Partners
  - Investors
- Download
  - Meetings Client
  - Zoom Rooms Client
  - Browser Extension
  - Outlook Plug-in
  - Lync Plug-in
  - iPhone/iPad App
  - Android App
- Sales
  - 1.888.799.9666
  - Contact Sales
  - Plans & Pricing
  - Request a Demo
  - Webinars and Events
- Support
  - Test Zoom
  - Account
  - Support Center
  - Live Training
  - Feedback
  - Contact Us
  - Accessibility

Four blue arrows with white text provide instructions:

1. Enter name and email (points to the name and email fields)
2. Click this box (points to the reCAPTCHA box)
3. Answer challenge question (points to the reCAPTCHA challenge images)
4. Click when done. (points to the "Join Webinar in Progress" button)

STEP 3: This Window will appear when connected.



# STEP 4: Adjust audio settings (if needed)

**1**

Select a Speaker  
✓ Remote Audio  
Same as System  
Test Speaker & Microphone...  
Leave Computer Audio  
Audio Settings...

**2**

Settings

General  
Video  
**Audio**  
Share Screen  
Virtual Background  
Recording  
Statistics  
Feedback  
Keyboard Shortcuts  
Accessibility

Speaker: Test Speaker Remote Audio  
Output Level: \_\_\_\_\_  
Volume: \_\_\_\_\_

Microphone: Test Mic \_\_\_\_\_  
Input Level: \_\_\_\_\_  
Volume: \_\_\_\_\_  
 Automatically adjust volume

Use separate audio device to play ringtone simultaneously  
 Automatically join audio by computer when joining a meeting  
 Mute my microphone when joining a meeting  
 Press and hold SPACE key to temporarily unmute yourself  
 Sync buttons on headset

Advanced

269-673-4514  
mblee@allegancounty.org

**Economic Development — Greg King, Director**  
**ADMINISTRATIVE REPORTS:**

**DISTRICT 4**  
Mark DeYoung  
816-318-9612  
mdeyoung@allegancounty.org

**CONSENT ITEMS:**

1. Motion to approve of claims paid and to incorporate into proceedings of the Board (3/20/20 & 3/27/20)

Audio Settings ^

Chat Raise Hand Q&A

# STEP 5: Raise hand to be recognized to speak.

- Once “Raise Hand” is clicked, the Board Chairperson will receive notice and may UNMUTE your microphone when ready and verbally recognize you to speak.

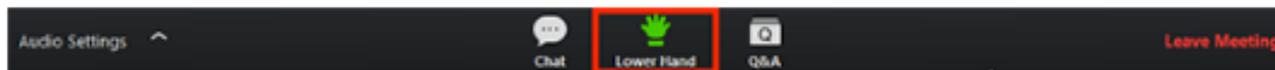
On bottom of screen.

1. Click **Raise Hand** in the Webinar Controls.



2. The host will be notified that you've raised your hand.

3. Click **Lower Hand** to lower it if needed.



# STEP 6: To leave the meeting

The screenshot displays a Zoom meeting window. At the top, a green banner reads "You are viewing Allegan County Administration's screen" with a "View Options" dropdown. In the top right corner, there is an "Enter Full Screen" button. The main content area shows a Microsoft Word document titled "BOC20200409\_agenda [Compatibility Mode] - Word" by Steve Sedore. The document header includes the "Allegan County Board of Commissioners" logo and contact information for County Services Building (3283 - 122<sup>nd</sup> Avenue, Allegan, MI 49010) and Chairperson Jim Storey and Vice Chairperson Gale Dugan. The agenda items are listed under "BOARD OF COMMISSIONERS MEETING - AGENDA":

- DISTRICT 1** (Doan Kasperge): Virtual Meeting - Connectivity Instructions **Attached**
- DISTRICT 2** (Jim Storey)
- DISTRICT 3** (Max R. Thiele)
- DISTRICT 4** (Marilyn D. Young)

The agenda items include: 1PM CALL TO ORDER; ROLL CALL; OPENING PRAYER; PLEDGE OF ALLEGIANCE; COMMUNICATIONS: Attached; APPROVAL OF MINUTES: Attached; PUBLIC PARTICIPATION; ADDITIONAL AGENDA ITEMS; APPROVAL OF AGENDA; PRESENTATIONS; PROCLAMATIONS; INFORMATIONAL SESSION: Attached; ADMINISTRATIVE REPORTS; and CONSENT ITEMS.

At the bottom of the Zoom window, the "Leave Meeting" button is highlighted in red. A large blue arrow points to this button. Other controls include "Audio Settings", "Chat", "Raise Hand", and "Q&A". The status bar at the bottom left shows "PAGE 1 OF 2" and "251 WORDS".

RESOLUTION

NO: 2021-02-029

LIVINGSTON COUNTY

DATE: February 22, 2021

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**Resolution Calling Upon the Governor and the Michigan Department of Health and Human Services to Retract their SVI Social Factor Based Plan and Replace it with a Scientific Medical Factor Based Plan that Results in a Pro-Rata Uniform Distribution to Michigan’s Most Medically Vulnerable Population**

- WHEREAS,** the 2020-2021 Covid-19 Pandemic and the State of Michigan’s handling of said pandemic remain cause for serious concern for Livingston County residents; and
- WHEREAS,** the State of Michigan is responsible for distributing the limited supply of Covid-19 vaccine; and
- WHEREAS,** the State of Michigan has failed or refused to perform its constitutional obligation to distribute the limited amount of vaccines efficiently, fairly, and uniformly; and
- WHEREAS,** Livingston County is home to approximately 188,482 residents, approximately 41,000 of whom are eligible to receive Covid-19 vaccinations under the terms of the Michigan Department of Health and Human Services (MDHHS) current priority phase, and at least 18,300 eligible persons over 65 years of age have expressed an interest in receiving vaccinations according to the vaccine interest survey on the Livingston County web page; and
- WHEREAS,** the State has only allocated 6,300 vaccine doses for first dose administration to the Livingston County Health Department – a grossly disproportionate amount as compared to other counties and based on the size of the vaccine eligible population; and
- WHEREAS,** it is generally accepted, based on the commentary from the CDC and the State of Michigan, the population most vulnerable to Covid-19 are those 65 years of age and older; and
- WHEREAS,** the CDC has specifically said that “We do know that older adults and people who have severe underlying medical conditions like obesity, diabetes, or heart or lung disease are at higher risk for developing more serious complications when they have COVID-19”; and
- WHEREAS,** for nearly one year, the State of Michigan experts have emphasized repeatedly to Michigan residents that Covid-19 is especially deadly for seniors, especially for those with underlying conditions; and
- WHEREAS,** based on the best available health information, we understand that compared to young, healthy individuals, 65-74 year olds have an increase in the relative risk of death of 90-times, 75-84 year olds have an increase in the relative risk of death of 220-times, and individuals 85 years old and older have an increase in the relative risk of death of 630-times. Additionally, we are informed that comorbidities also play a role in an increased risk compared to young, healthy individuals, ranging broadly from a 2- to 3-fold increase in relative risk of hospitalization. We also understand that race and ethnicity play a role in increasing risk compared to young, healthy, non-minority groups, with estimates of a relative risk of increase in hospitalization of 4-fold and an increase in the relative risk of death of 3-fold; and
- WHEREAS,** the State of Michigan’s Plan for the distribution of Covid-19 vaccine was not updated until January 31, 2021, more than one month after distribution of the vaccine began; and
- WHEREAS,** the State of Michigan has chosen for unknown reasons to use an algorithm based upon social factors versus medically established risk factors as the basis on which to allocate vaccine to Michigan counties, and the Michigan experts selected the Social Vulnerability Index (SVI) as a means to prioritize vaccine shipments to counties; and

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- WHEREAS,** the SVI Algorithm calculates a value, from 0 to 1, based upon 15 Social Factors rather than medical factors, with a lower value resulting in a county receiving less vaccine, while a higher value results in a county receiving more vaccine, and as a direct result of the application of this selected formula, Livingston County has been assessed as having the lowest priority of all 83 Michigan counties; and
- WHEREAS,** had the State of Michigan elected to fairly and objectively and uniformly distribute vaccine based on a county's population of its most at risk—e.g. its senior citizens—Livingston County should be prioritized as the 11<sup>th</sup> highest, rather than the lowest or 83<sup>rd</sup>; and
- WHEREAS,** a review of the State's Plan reveals that it has the direct impact of depriving Livingston County's most vulnerable citizens of their right to a fair share of vaccine because rather than allocating vaccine based upon demonstrated and accepted medical factors, State of Michigan experts primarily rely on social factors to allocate vaccine to counties; and
- WHEREAS,** the State of Michigan's Plan specifically identifies the importance of vaccinating persons who, by way of example, are incarcerated and non-citizens, when these factors present little, if any, cause for Covid-19 risk or connection to protecting Michigan's and Livingston County's most vulnerable population; and
- WHEREAS,** this SVI or social factor approach was not used by the State of Michigan when dealing with the H1N1 Pandemic, when it, instead, relied upon medical factors such as age and pregnancy which directly correlated with the vulnerable population for that disease; and
- WHEREAS,** citizens desiring more information regarding this disparate treatment of Livingston County Residents are encouraged to read the attached report titled, "COVID-19 Vaccine Allocation: Social Equity vs. Vaccine Fairness."
- NOW THEREFORE, BE IT RESOLVED,** the Livingston County Commission calls upon the Michigan Governor and the Michigan Department of Health and Human Services to rescind their SVI Social Factor Based Plan and replace it with a scientific medical factor based plan that results in a pro-rata uniform distribution to Michigan's most medically vulnerable population; and
- BE IT FURTHER RESOLVED,** the Livingston County Commission rejects any advice or opinion, expert or otherwise, from the State of Michigan that may be used to justify the selection of the SVI Social Factor Based Plan over a scientific medical factor based plan that fairly and uniformly addresses the needs of all of Michigan's most medically vulnerable population regardless of which county they reside in; and
- BE IT FURTHER RESOLVED,** we urge citizens to call, email, text, write, and otherwise correspond with the Governor's Office, the office of our state representatives, the office of our state senator, and the office of the Michigan Department of Health and Human Services to voice their rightful concerns with the fundamental inequities of the SVI Social Factor Plan and how it unfairly ignores the needs of the most medically vulnerable population in our County; and

**BE IT FURTHER RESOLVED**, that copies of this Resolution and the attached Report be transmitted to Governor Whitmer, the Michigan Department of Health and Human Services, Representative Bezotte, Representative Bollin, Senator Theis, both United States Senators, all Michigan Members of Congress, the Speaker of the State House of Representatives and the Majority Leader of the State Senate, the Michigan Association of Counties and all Counties within Michigan, along with the Michigan Township Association and all Townships, Cities and Villages within Livingston County, Michigan.

**BE IT FURTHER RESOLVED**, that the County Administrator and County Corporate Counsel are directed to investigate and report to the Board of Commissioners, by March 1, 2021, possible administrative appeals and legal avenues to compel the State of Michigan to protect our most medically vulnerable citizens by fairly allocating vaccine doses to counties based upon proportional vaccination phase population estimates and not based upon non-medical or social factors.

# # #

**MOVED:** M. Zajac  
**SECONDED:** J. Gross  
**CARRIED:** Roll Call Vote: Yes (8): M. Zajac, J. Gross, B. Plank, W. Nakagiri, C. Griffith, C. Reader, D. Helzerman, and J. Drick; No (0): None; Absent (1): K. Lawrence

STATE OF MICHIGAN )  
) §  
COUNTY OF LIVINGSTON )

I, **ELIZABETH HUNDLEY**, the duly qualified and acting Clerk of the County of Livingston, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the County Board of Commissioners at a regular meeting on the 22<sup>nd</sup> day of February 2021, the original of which is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed by official signature on this 23rd day of February 2021 A.D.



*Elizabeth Hundley*  
ELIZABETH HUNDLEY, LIVINGSTON COUNTY CLERK



THE HONORABLE BOARD OF COMMISSIONERS OF BERRIEN COUNTY, MICHIGAN ADOPTS  
THE FOLLOWING RESOLUTION:

**WHEREAS**, the Berrien County Board of Commissioners recognizes the heroic efforts of our front-line workers and first responders and applauds the citizens and businesses who have diligently adhered to mitigation measures; and

**WHEREAS**, the Berrien County Board of Commissioners appreciates the need for appropriate executive and epidemic orders and policies to mitigate the spread of the COVID-19 virus and promote public safety, while also protecting local and state economic interests; and

**WHEREAS**, Berrien County's cases and positivity rates continue to decline, hospital capacity continues to improve, and the number of citizens who have been vaccinated to protect themselves from the virus, increases daily; and

**WHEREAS**, the Berrien County Board of Commissioners addressed the need to regionalize the response to COVID-19 in a letter to Governor Whitmer in April of 2020, recognizing that what is necessary for some areas of our state may not be necessary in Southwest Michigan; and

**WHEREAS**, those of us in border counties have seen a magnified effect on our economy due to our citizens being able to drive a short distance to Indiana, where the restrictions are less; and

**WHEREAS**, the proximity to Indiana has particularly impacted our local restaurant industry which is already struggling to recover from another dine-in closure order, followed by a curfew and 25% capacity restriction that lacks financial viability for most area establishes; and

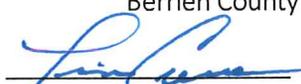
**WHEREAS**, while some local businesses may have received some governmental financial assistance it was not enough to offset the losses of revenue due to closures and restrictions, thus many local businesses have been forced to close permanently due to the irreparable economic harm they have experienced throughout this past year and many more will follow if the state does not adopt a new approach to mitigation policies; and

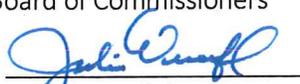
**WHEREAS**, Berrien County has seen a consistent downward trend in the numbers affected by COVID-19, it is now time for all of our businesses, including but not limited to restaurants and banquet facilities, to remain open in accordance with CDC guidelines with industry-specific procedures and protocols aimed at containing the spread of COVID-19 in place.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the Berrien County Board of Commissioners calls upon the Governor to implement a new, regional approach to mitigation that values local input; takes cases, vaccinations, seasonality, and regional differences into consideration; and sets clear benchmarks for the easing of restrictions on businesses for the public to follow.

Respectfully,  
Berrien County Board of Commissioners

  
R. McKinley Elliott

  
Jim Curran

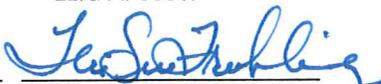
  
Julie Wuerfel

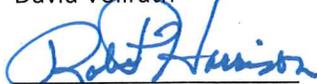
  
Ezra A. Scott

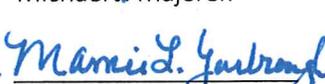
  
David Vollrath

  
Michael J. Majerek

  
Don Meeks

  
Teri Sue Freehling

  
Robert P. Harrison

  
Mamie L. Yarbrough

  
Jon Hinkelman

  
Rayonte D. Bell

Minutes of a regular meeting of the Otsego County Board of Commissioners, held in Room 100 at the County Building, 225 W. Main St., Gaylord, Michigan on the 23<sup>rd</sup>, day of February, 2021 beginning at 9:30a.m.

PRESENT: Henry Mason, Paul Liss, Brett McVannel, Rob Pallarito, Ken Glasser, Doug Johnson, Jason Caverson, Bruce Brown.

ABSENT: Julie Powers.

The following preamble and resolution was offered by Commissioner Paul Liss, seconded by Commissioner Doug Johnson.

**RESOLUTION NO. OCR 21-08**  
**PANDEMIC RESOLUTION**  
OTSEGO COUNTY BOARD OF COMMISSIONERS

**WHEREAS**, the novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death with resulting widespread disruptions to everyday life and;

**WHEREAS**, the Otsego County Board of Commissioners recognizes that COVID-19 restrictions are having and will continue to have, direct short and long term impacts on all County residents, impacts which include, but are not limited to, physical and mental health care difficulties, educational constraints, and financial strains; and

**WHEREAS**, the Otsego County Board of Commissioners understands that many local private businesses and industries have suffered and continue to suffer economic harm due to COVID-19 thru no fault of their own; and

**WHEREAS**, the COVID-19 shutdown, pause, and mandates have created a desperate situation for our county's constituents, businesses, schools, and organizations.

**WHEREAS**, the Otsego County Board of Commissioners asserts that the vitality of our local restaurants, hotels, recreation venues, industries, service providers, etc., contributes substantially to the overall physical and mental well-being of residents of the County, and further asserts that the seasonal nature of our area places a heavy dependence for employment on the food and recreation industries and the loss of these businesses will have long term effects on employment for our citizens; and

**WHEREAS**, it is our belief that while public health must be prioritized, unconstitutional burdens have been placed on certain sectors of our economy, community groups, and citizenry. We believe Gubernatorial actions have polarized, politicized, and antagonized Michigan leaders in all sectors. These challenging times call for unity, coordination, and balance to protect lives and livelihoods with actions considered by the many hands that hold the responsibility.

**NOW THEREFORE BE IT RESOLVED**, that the duly elected Commissioners of Otsego County, with the sworn duty to uphold the Constitution of the United States, the Constitution of the State of Michigan, and responsibility to serve the people of Otsego County, do hereby resolve to oppose, the distress and destruction continuing to impact our community, our state, and our nation due to COVID-19 restrictions.

**BE IT FURTHER RESOLVED** that the Otsego County Board of Commissioners encourages the lifting of restrictions as soon as is feasible.

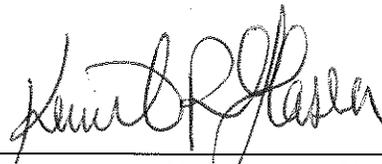
**BE IT FURTHER RESOLVED**, that we call for actions that restore our faith in a Michigan leadership that is unified, not unilateral, and driven by decisions that serve the needs of the many without polarization. It is with the utmost serious reflection and responsibility, that we stand resolved in our sworn duty to serve our community and demand our freedom of choice be reinstated.

A ROLL CALL VOTE WAS TAKEN AS FOLLOWS:

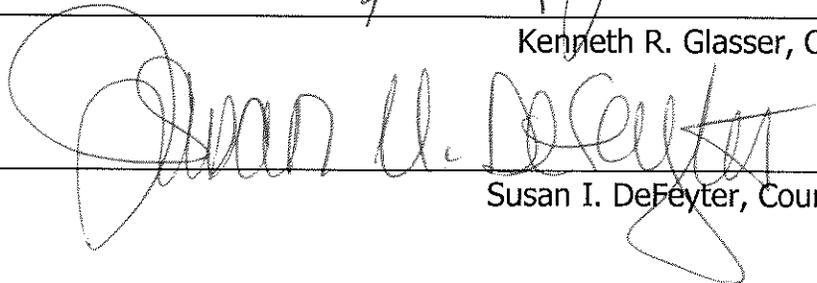
YES: Paul Liss, Brett McVannel, Ken Glasser, Doug Johnson, Jason Caverson, Bruce Brown.

NO: Henry Mason, Rob Pallarito.

RESOLUTION DECLARED ADOPTED.



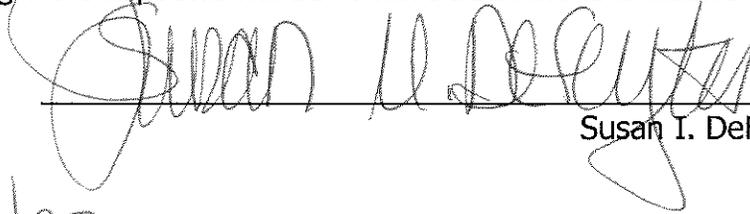
Kenneth R. Glasser, Chairman



Susan I. DeFeyer, County Clerk

STATE OF MICHIGAN)  
§  
COUNTY OF OTSEGO)

The undersigned, being the duly qualified and acting Clerk of the County of Otsego, hereby certifies that the foregoing is a true and complete copy of a resolution duly adopted by the Otsego County Board of Commissioners at its regular meeting held on the 23<sup>rd</sup> day of February, 2021, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the County. I further certify that the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and of such meeting were kept and will be or have been made available as required thereby.



Susan I. DeFeyter, County Clerk

DATED: 2/23, 2021

**CRAWFORD COUNTY RESOLUTION**  
**Supporting Local Businesses -2252021**

WHEREAS, the novel coronavirus (COVID – 19) is a respiratory disease that can result in serious illness and death; and

WHEREAS, the Crawford County Board of Commissioners recognizes that COVID-19 is having direct impacts on all County residents, impacts which include, but are not limited to, physical and mental health care difficulties, educational constraints and financial strains; and

WHEREAS, the Crawford County Board of Commissioners understands that many local businesses have suffered and continue to suffer economic harm due to COVID – 19; and

WHEREAS, the Crawford County Board of Commissioners furthermore recognizes that the local hospitality industry is being hit particularly hard with financial losses due to COVID – 19; and

WHEREAS, the Crawford County Board of Commissioners believes that the ability of county residents and visitors to patronize local restaurants, hotels, recreation venues, etc., contributes substantially to the overall well-being of the County; and

WHEREAS, the Crawford County Board of Commissioners is aware of many options to support Crawford County small businesses, such as ordering takeout food, making advance reservations and purchasing gift cards; and

NOW THEREFORE BE IT RESOLVED THAT, The Crawford County Board of Commissioners encourages county residents to support local businesses at all times, but particularly during this global pandemic; and

BE IT FURTHER RESOLVED THAT, that this resolution is sent to all counties in Michigan, the Michigan Association of Counties, Representative Daire Rendon, Senator Curt VanderWall and Governor Gretchen Whitmer.

APPROVED AS TO FORM

Commissioner Jamison	Yes	Commissioner McClain	Yes
Commissioner Priebe	Absent	Commissioner Jansen	Yes
Commissioner Pinkelman	Yes	Commissioner Powers	Yes
Commissioner Lewis	Yes		

ADOPTED DATE: February 25<sup>th</sup>, 2021

I, Sandra Moore, Clerk of the Crawford County Board of Commissioners and Clerk of the County of Crawford, do hereby certify that the above Resolution was duly adopted by the said Board on February 25<sup>th</sup>, 2021.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County and Court at Grayling, Michigan, this 25<sup>th</sup> day of February, 2021

  
Shelly L. Pinkelman, Chair  
Crawford County Board of Commissioners

  
Sandra M. Moore  
Clerk/ROD

## ALLEGAN COUNTY BOARD OF COMMISSIONERS

## INDEX

FEBRUARY 25, 2021 SESSION

JOURNAL 69

<u>PAGE</u>	<u>ITEM</u>	<u>SUBJECT MATTER</u>
182	1	FEBRUARY 25, 2021 SESSION - PLEDGE OF ALLEGIANCE, ROLL CALL
182	2	PUBLIC PARTICIPATION - NO COMMENTS
182	3	APPROVAL OF AGENDA AS PRESENTED
182	4	COURTHOUSE CONSTRUCTION PROJECT
182-183	5	2021/22 BOARD PLANNING - STRATEGIC WORK PLAN
183	6	ADMINISTRATIVE UPDATE
183	7	PUBLIC PARTICIPATION - NO COMMENTS
183	8	ADJOURNMENT UNTIL MARCH 11, 2021
183	9	FEBRUARY 25, 2021 SESSION - INVOCATION, PLEDGE OF ALLEGIANCE, ROLL CALL
184	10	COMMUNICATIONS
184	11	APPROVAL OF MINUTES - FEBRUARY 11, 2021
184	12	PUBLIC PARTICIPATION - NO COMMENTS
184	13	APPROVAL OF AGENDA AS PRESENTED
184-190	14	PRESENTATIONS - COMMUNITY MENTAL HEALTH
191	15	ADMINISTRATIVE REPORT
191-192	16	CLAIMS & INTERFUND TRANSFERS 2/19/21 AND 2/26/21
192-193	17	CASCO DRAIN DRAINAGE DISTRICT BONDS
194	18	PUBLIC PARTICIPATION - NO COMMENTS
194	19	ADJOURNMENT UNTIL MARCH 11, 2021

## MORNING SESSION

**FEBRUARY 25, 2021 SESSION - PLEDGE OF ALLEGIANCE, ROLL CALL**

1/ The Board of Commissioners of the County of Allegan, State of Michigan, met remotely online connecting through a Zoom webinar on February 25, 2021 at 9:00 A.M. in accordance with the motion for adjournment of February 11, 2021, and rules of this board; Chairman Storey presiding.

The Deputy Clerk led the Board in the Pledge of Allegiance to the flag.

Upon roll call the following members answered as Commissioners for the respective Districts:

DIST #1	DEAN KAPENGA- Manlius Twp	DIST #5	TOM JESSUP - Allegan Twp
DIST #2	JIM STOREY - Holland	DIST #6	GALE DUGAN - Allegan Twp
DIST #3	MAX THIELE - Allegan Twp	DIST #7	RICK CAIN - Sumter Co FL
DIST #4	MARK DeYOUNG - Dorr Twp		

**PUBLIC PARTICIPATION - NO COMMENTS**

2/ Chairman Storey opened the meeting to public participation and as there were no comments from the public, he closed the meeting to public participation.

**AGENDA - ADOPTED AS PRESENTED**

3/ Moved by Commissioner Thiele, seconded by Commissioner DeYoung to adopt the meeting agenda as presented. Motion carried by roll call vote. Yeas: 6 votes. Nays: 0 votes. Absent: Kapenga (connection issue)

**DISCUSSION ITEMS:****COURTHOUSE CONSTRUCTION PROJECT**

4/ Administrator Sarro updated the board on the Courthouse construction project. The State Bureau of Construction Codes (BCC) did not approve the plans due to requiring a barrier free access point.

Moved by Commissioner Cain, seconded by Commissioner Kapenga to authorize an additional allocation of \$150,000 to the Courthouse project (consisting of the addition of a barrier free ramp at an estimated cost of \$40,000, market cost adjustments of approximately \$100,000 and additional contingency of \$10,000), authorize the Executive Director of Finance to make the necessary budget adjustments and authorize the County administrator to sign the necessary documents. Motion carried by roll call vote. Yeas: Kapenga, Storey, DeYoung, Dugan and Cain. Nays: Thiele and Jessup.

**2021/22 BOARD PLANNING - STRATEGIC WORK PLAN**

5/ Administrator Sarro reviewed the Strategic Work Plan regarding staffing requests from the Sheriff Department, District Court and the Prosecutors Office. Discussion followed.

Paul Sachs, Director for the Department of Planning and Improvement in Ottawa County addressed the board on County Broadband. The FCC released the results of the Rural Digital Opportunity Fund Auction. This was a nation-wide process to solicit funding to expand high speed internet in

unserved/underserved areas. For Michigan, (13) bidders were awarded monies to address about 250,000 locations across the State over the next 10 years. Within Allegan County (3) companies were awarded \$1,713,249.50 to serve 4,054 locations. The County will continue to research the general area(s) where these location exist. Discussion followed.

Commissioners ended with discussion on Economic Development priorities. Commissioner comments will be shared with the Economic Development Commission members and Lakeshore Advantage for their awareness and any input they may have relative to the Commissioner comments. The County Administrator will research the possibility of partnership with Ottawa County on broadband and will reach out to Lakeshore Advantage and Public Health in regards to water supply (this does not replace the next steps relating to Allegan County's water availability and quality study which are already outlined in the update). Options and all comments will be compiled and provided to the Board by the end of March.

#### **ADMINISTRATIVE UPDATE**

6/ Administrator Sarro updated the Board on a memo that is being sent to local jurisdictions on the Separate Tax Limitation proposal that was approved by voters during the November 3, 2020 General Election. Sarro also discussed the Leaking Underground Storage Tanks (LUST) sites that are located in Allegan County.

#### **PUBLIC PARTICIPATION - NO COMMENTS**

7/ Chairman Storey opened the meeting to public participation and as there were no comments from the public, he closed the meeting to public participation.

#### **ADJOURNMENT UNTIL MARCH 11, 2021 AT 9:00 A.M.**

8/ Moved by Commissioner Thiele, seconded by Commissioner Dugan to adjourn until March 11, 2021 at 9:00 A.M. The motion carried by roll call vote and the meeting was adjourned at 12:05 P.M. Yeas: 7 votes. Nays: 0 votes.

#### **AFTERNOON SESSION**

#### **FEBRUARY 25, 2021 SESSION - INVOCATION, PLEDGE OF ALLEGIANCE, ROLL CALL**

9/ The Board of Commissioners of the County of Allegan, State of Michigan, met remotely online connecting through a Zoom webinar on February 25, 2021 at 9:00 A.M. in accordance with the motion for adjournment of February 11, 2021, and rules of this board; Vice-Chairman Dugan presiding.

The invocation was offered by District #1 Commissioner Kapenga.

The Deputy County Clerk led the Board in the Pledge of Allegiance to the flag.

Upon roll call the following members answered as Commissioners for the respective Districts:

DIST #1	DEAN KAPENGA- Manlius Twp	DIST #5	TOM JESSUP - Allegan Twp
DIST #2	JIM STOREY - Absent	DIST #6	GALE DUGAN - Allegan Twp
DIST #3	MAX THIELE - Allegan Twp	DIST #7	RICK CAIN - Sumter Co FL
DIST #4	MARK DeYOUNG - Dorr Twp		

**COMMUNICATIONS**

**10/** Deputy Clerk Tien noted to the board that they received the following resolutions:

1. Menominee County resolution supporting a collective effort by Michigan Counties in opposing current and future order unilaterally issued by Governor Whitmer and State agencies in response to COVID-19
2. Mecosta County resolution of support for local businesses
3. Missaukee County pandemic resolution
4. Iron County resolution in support of waiving fees for licenses/permits for small businesses servicing the public

**FEBRUARY 11, 2021 SESSION MINUTES - ADOPTED**

**11/** Moved by Commissioner Thiele, seconded by Commissioner Cain to approve the minutes for the February 11, 2021 session as distributed. Motion carried by roll call vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

**PUBLIC PARTICIPATION - NO COMMENTS**

**12/** Vice-Chairman Dugan opened the meeting to public participation and as there were no comments from the public, he closed the meeting to public participation.

**AGENDA - ADOPTED AS PRESENTED**

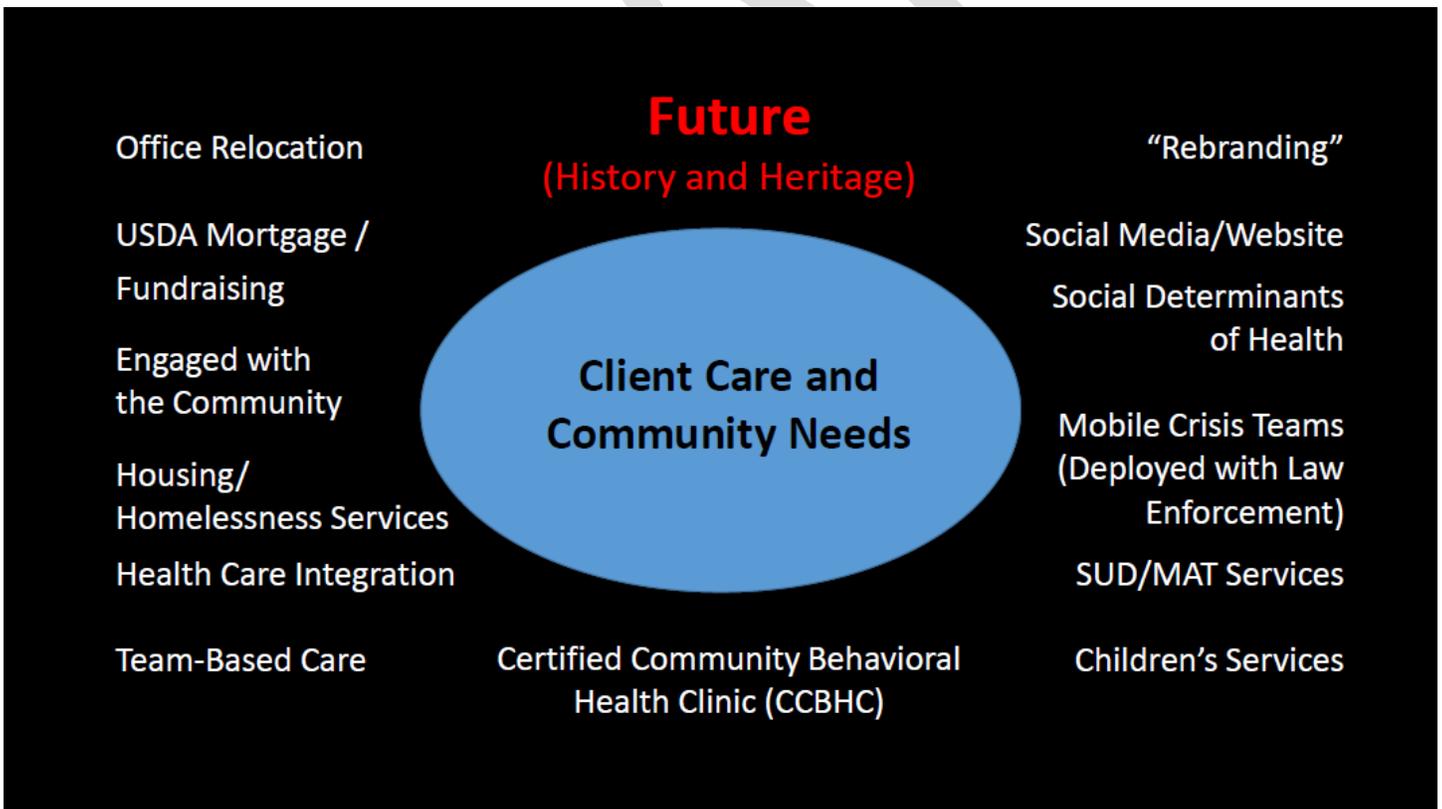
**13/** Moved by Commissioner Thiele, seconded by Commissioner DeYoung to adopt the meeting agenda as presented. Motion carried by roll call vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

**PRESENTATIONS - COMMUNITY MENTAL HEALTH**

**14/** Community Mental Health Director Mark Witte gave an update to the Board on their new building location at the former Shopko property.

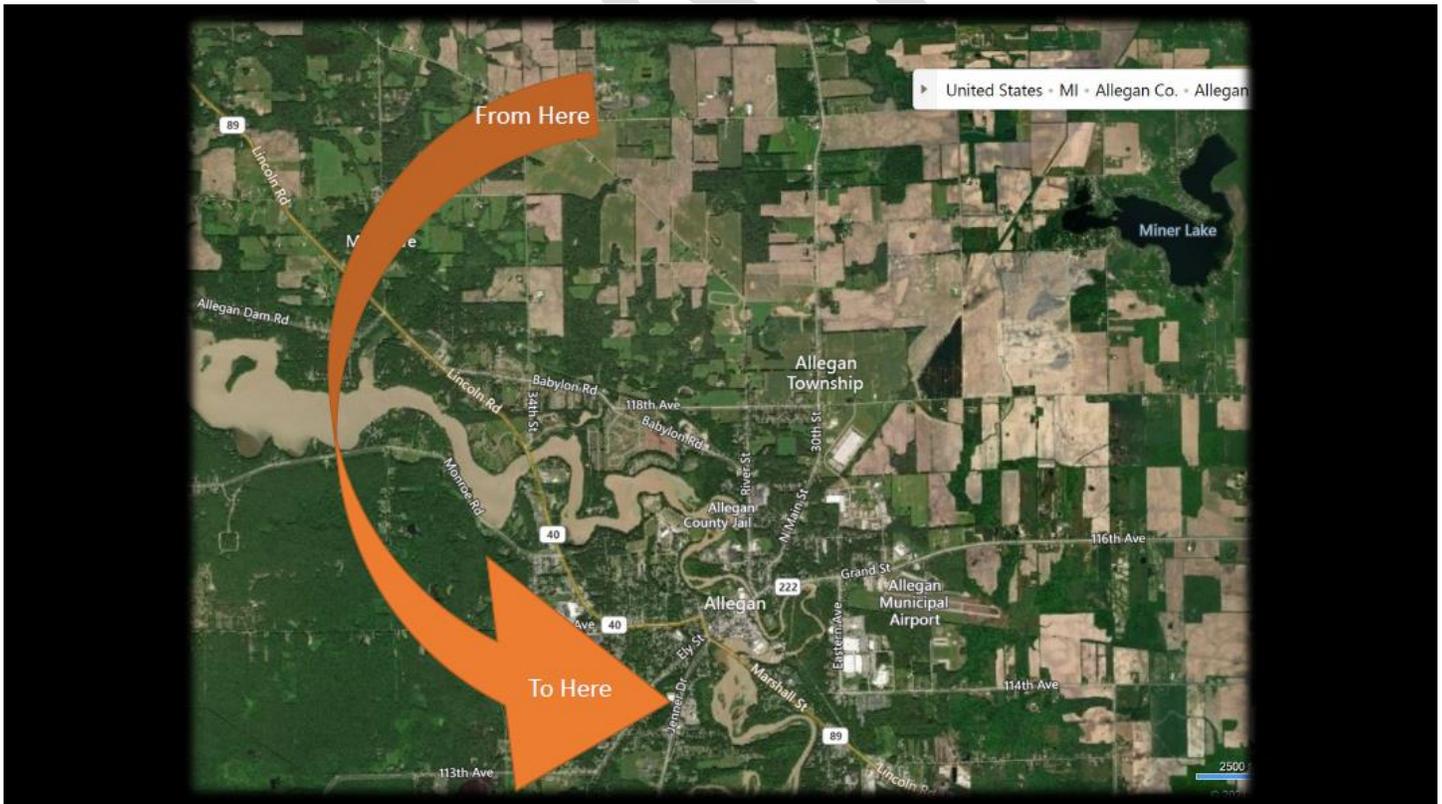
**Allegan County  
Community Mental Health Services  
Building Relocation**

*Positioning Our Vital Behavioral Health Services  
for the Next Fifty Years*



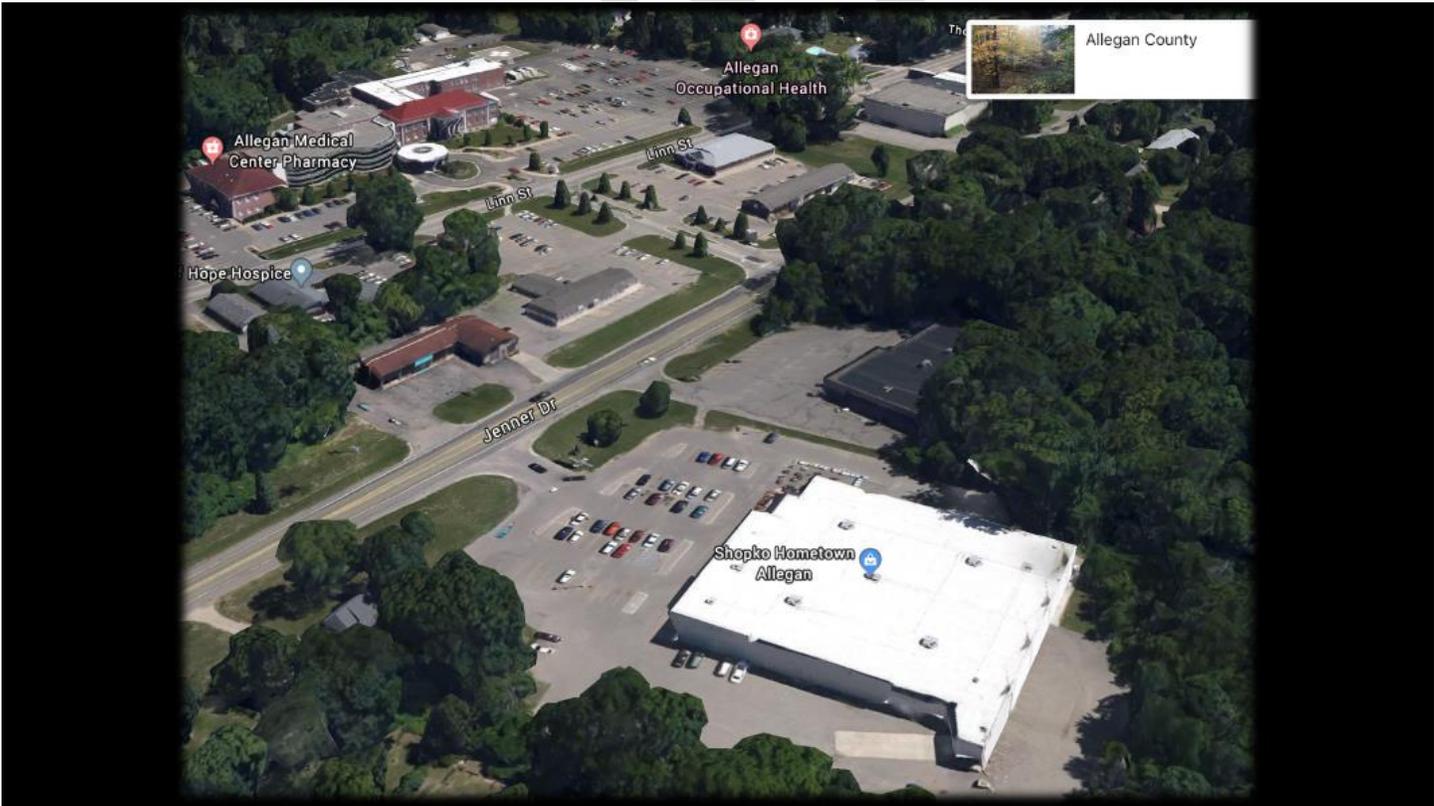
# Our Current Locations

- Two separate buildings
- Well-maintained, but...
- Buildings from a different era of care
- Limited accessibility
- Limited visibility



# The "ShopKo Building"

180x200 = 36,000 sq. ft.



# Facility Planning

- Process – Extensive staff and board input
- Goals
  - Best possible usage for the people we serve, our guests, the public and our staff
  - Honoring Allegan – faithfully representing you
  - Community Benefit – giving back
- Timeline – best guess; move in April 2022

## Budget/Funding (simplified)

<u>EXPENSES</u>	<u>Costs</u>	<u>RESOURCES</u>	<u>Costs</u>
Building Acquisition	\$1,575,000	USDA Mortgage*	\$5,635,000
Rental/Architect Fees	85,000	Down Payments	180,000
Construction	4,000,000	Fundraising**	<u>820,000</u>
<u>Furnishings, Equipment</u>	<u>975,000</u>	<b>TOTAL</b>	<b>\$6,635,000</b>
<b>TOTAL</b>	<b>\$6,635,000</b>		

\* 30 years at 2.25%

\*\* Gap between costs and funding to date. Funding campaign will likely be larger. For the first time in history, we will appeal to the public for substantial support for the facility and for essential program support to provide care that is currently not available to everyone in need. Total campaign target still in process.

Looks like this on the outside now

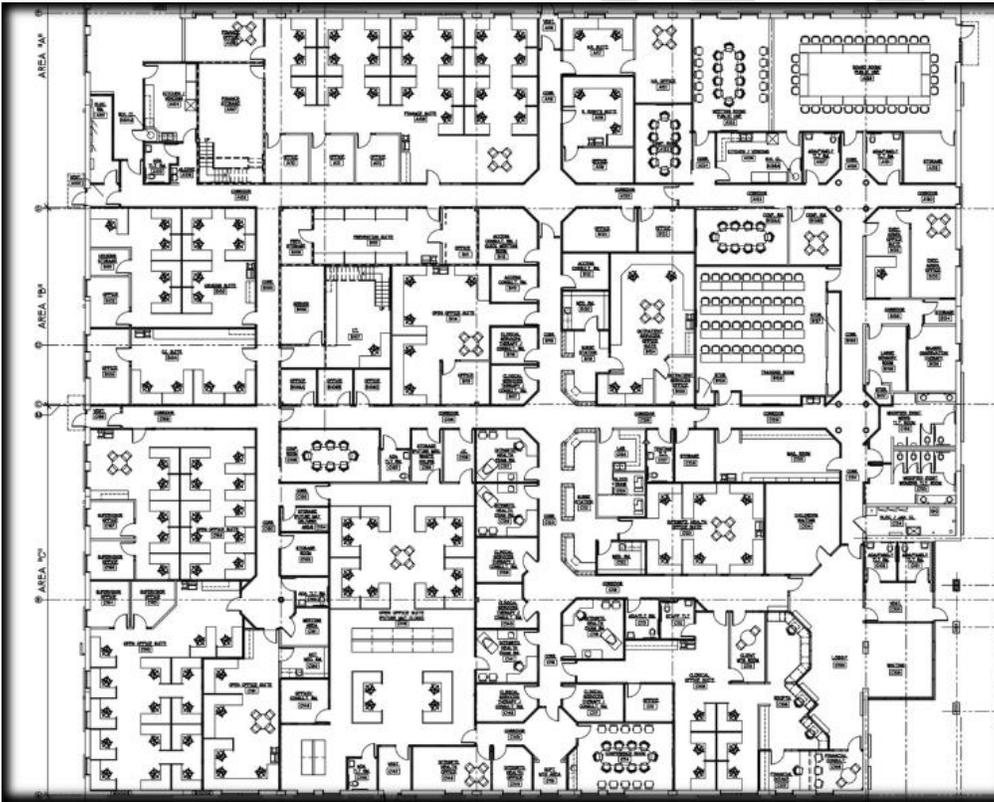
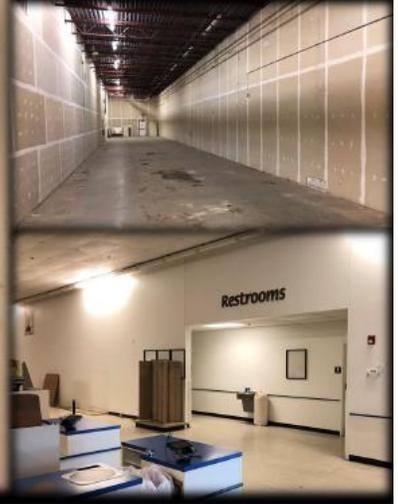


Might look something like this on the outside when we're done





Looks like this  
on the inside  
now



Might look  
something  
like this  
on the inside  
when we're  
done

**ADMINISTRATIVE REPORTS:**

**15/** Administrator Rob Sarro noted his written report was submitted to Commissioners. Highlights included the new signage at the Sheriff's Department; West Michigan Works office renovation; pictometry project; Central Dispatch upcoming legislative items; and MERS defined contribution forfeitures.

**FINANCE COMMITTEE - CLAIMS & INTERFUND TRANSFERS**

**16/ WHEREAS,** Administration has compiled the following claims for February 19, 2021 and February 26, 2021; and

**WHEREAS,** the following claims, which are chargeable against the County, were audited in accordance with Section 46.61 to 46.63, inclusive, M.C.L. 1970 as amended and resolutions of the Board; and

**WHEREAS,** said claims are listed in the 2021 Claims folder of the Commissioners' Record of Claims.

**February 19, 2021**

	TOTAL AMOUNT CLAIMED	AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund – 1010	160,317.01	160,317.01	
Central Dispatch/E911 Fund – 2110	3,285.12	3,285.12	
Central Dispatch CIP - 2118	426.67	426.67	
Friend of the Court Office – 2151	90.92	90.92	
Health Department Fund – 2210	29,465.14	29,465.14	
Solid Waste – 2211	47,449.21	47,449.21	
Transportation Grant – 2300	557.81	557.81	
Capital Improvement Fund - 2450	1,551.44	1,551.44	
Indigent Defense - 2600	45,006.42	45,006.42	
Victims Rights Grant - 2791	40.47	40.47	
Child Care-Circuit/Family - 2921	238.52	238.52	
Senior Millage – 2950	610.01	610.01	
Delinquent Tax Revolving Fund - 6160	456.15	456.15	
Tax Reversion - 6200	63.96	63.96	
Fleet Management – 6612	377.14	377.14	
Self-Insurance Fund - 6770	1,761.39	1,761.39	
Drain Fund - 8010	4,129.00	4,129.00	
<b>TOTAL AMOUNT OF CLAIMS</b>	<b>\$295,826.38</b>	<b>\$295,826.38</b>	

**February 26, 2021**

	TOTAL AMOUNT CLAIMED	AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund – 1010	79,828.51	79,828.51	
Park/Recreation Fund - 2080	608.60	608.60	
Friend of the Court Office – 2151	439.32	439.32	
Health Department Fund – 2210	2,217.18	2,217.18	

Solid Waste – 2211	13,291.43	13,291.43	
Transportation Grant – 2300	3,414.19	3,414.19	
Capital Improvement Fund - 2450	5,757.79	5,757.79	
Animal Shelter - 2550	6,438.00	6,438.00	
Register of Deeds Automation Fund - 2560	134.31	134.31	
Indigent Defense - 2600	1,991.97	1,991.97	
Concealed Pistol Licensing Fund - 2635	278.00	278.00	
Grants - 2790	8,102.05	8,102.05	
Child Care-Circuit/Family - 2921	7,533.15	7,533.15	
Soldiers Relief Fund - 2930	36.48	36.48	
Senior Millage – 2950	1,226.29	1,226.29	
Delinquent Tax Revolving Fund - 6160	1,751.43	1,751.43	
Trust and Agency Fund - 7010	88,754.78	88,754.78	
Drain Fund - 8010	1,014.00	1,014.00	
<b>TOTAL AMOUNT OF CLAIMS</b>	<b>222,817.48</b>	<b>222,817.48</b>	

**THEREFORE BE IT RESOLVED** that the Board of Commissioners adopts the report of claims for February 19, 2021 and February 26, 2021.

Moved by Commissioner Thiele, seconded by Commissioner Kapenga to adopt the report of claims for February 19, 2021 and February 26, 2021. Motion carried by roll call vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

**DISCUSSION ITEMS:**

**CASCO DRAIN DRAINAGE DISTRICT BONDS – PLEDGE FULL FAITH & CREDIT**

**17/ WHEREAS** pursuant to a petition filed with the Drain Commissioner of the County of Allegan, State of Michigan (the "Drain Commissioner"), proceedings have been taken under the provisions of Act 40, Public Acts of Michigan, 1956, as amended (the "Act"), for the making of certain intra-county drain improvements referred to as the Casco Drain Maintenance and Improvement Project (the "Project"), which is being undertaken by the Casco Drain Drainage District (the "Drainage District") in a Special Assessment District (the "Special Assessment District") established by the Drainage District; and

**WHEREAS**, the Project is necessary for the protection of the public health, and in order to provide funds to pay the costs of the Project, the Drain Commissioner intends to issue the Drainage District's bonds (the "Bonds"), in one or more series, in an amount not to exceed \$1,765,000 pursuant to the Act; and

**WHEREAS**, the principal of and interest on the Bonds will be payable from assessments to be made upon public corporations and/or benefited properties in the Special Assessment District; and

**WHEREAS**, the Allegan County Board of Commissioners (the "Board") may, by resolution adopted by a majority of the members of the Board, pledge the full faith and credit of the County for the prompt payment of the

principal of and interest on the Bonds pursuant to Section 276 of the Act; and

**WHEREAS**, the pledge of the full faith and credit of the County to the Bonds will reduce the cost of financing the Project and will be a benefit to the people of the County.

**NOW, THEREFORE, IT IS RESOLVED** as follows:

1. The County pledges its full faith and credit for the prompt payment of the principal of and interest on the Bonds in a par amount not to exceed \$1,765,000. The County shall immediately advance sufficient moneys from County funds, as a first budget obligation, to pay the principal of and interest on any of the Bonds should the Drainage District fail to pay such amounts when due. The County shall, if necessary, levy a tax on all taxable property in the County, to the extent other available funds are insufficient to pay the principal of and interest on the Bonds when due.

2. Should the County advance County funds pursuant to the pledge made in this Resolution, the amounts shall be repaid to the County from assessments or reassessments made upon benefited properties in the Special Assessment District as provided in the Act.

3. The Chairperson of the Board, the County Administrator, the County Clerk, the County Treasurer, County Executive Director of Finance and any other official of the County, or any one or more of them ("Authorized Officers"), are authorized and directed to take all actions necessary or desirable for the issuance of the Bonds and to execute any documents or certificates necessary to complete the issuance of the Bonds, including, but not limited to, any applications including the Michigan Department of Treasury, Application for State Treasurer's Approval to Issue Long-Term Securities, any waivers, certificates, receipts, orders, agreements, instruments, and any certificates relating to federal or state securities laws, rules, or regulations and to participate in the preparation of a preliminary official statement and a final official statement for the Bonds and to sign such documents on behalf of the County and give any approvals necessary therefor.

4. Any one of the Authorized Officers is hereby authorized to execute a certificate of the County to comply with the continuing disclosure undertaking of the County with respect to the Bonds pursuant to paragraph (b) (5) of SEC Rule 15c2-12 issued under the Securities Exchange Act of 1934, as amended, and amendments to such certificate from time to time in accordance with the terms of such certificate (the certificate and any amendments thereto are collectively referred to herein as the "Continuing Disclosure Certificate").

5. All resolutions and parts of resolutions are, to the extent of any conflict with this resolution, rescinded to the extent of the conflict.

Moved by Commissioner Thiele, seconded by Commissioner Kapenga to take immediate action and approve the resolution as presented. Motion carried by roll call vote. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.

**PUBLIC PARTICIPATION - NO COMMENTS**

18/ Vice-Chairman Dugan opened the meeting to public participation and as there were no comments from the public, he closed the meeting to public participation.

**ADJOURNMENT UNTIL MARCH 11, 2021 AT 1:00 P.M.**

19/ Moved by Commissioner Cain, seconded by Commissioner Kapenga to adjourn until March 11, 2021 at 1:00 P.M. The motion carried by roll call vote and the meeting was adjourned at 2:11 P.M. Yeas: 6 votes. Nays: 0 votes. Absent: 1 vote.



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Deputy Clerk

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Board Chairperson

Minutes approved during the 00/00/2021 Session

DRAFT

***ANNUAL REPORT FOR 2020***  
***FROM THE***  
***ALLEGAN COUNTY CLERK AND REGISTER OF DEEDS***  
**BOB GENETSKI**  
respectfully submitted  
to the **ALLEGAN COUNTY BOARD OF**  
**COMMISSIONERS**



*In a year of many challenges, the poppy field in Fennville brought the blessings of joy and comfort to people from Allegan County and many visitors as well.*

*Photo by Jen Shanahan of Fennville*

March 11<sup>th</sup>, 2021

Chairman Storey & Honorable Commissioners Cain, Deyoung, Dugan, Jessup, Kapenga and Thiele-

It is a pleasure to present to you the *2020 Annual Report for the Offices of the Register of Deeds and County Clerk* – for a year that we can all agree tested Allegan County government and its citizens in many ways never seen before.



The challenges presented by COVID 19 and the response to the virus had profound effects on both offices under my direction. In the Clerk’s Office, the Elections Division navigated the tremendous effort of administering four very different elections- one of those a presidential contest in a swing state, during a pandemic, an election which would see the highest voter participation ever in Allegan County. The Circuit Court Records Division, working with the Judges of the 48<sup>th</sup> Circuit Court, had the unprecedented challenge of supporting jury trails (when allowed by the Supreme Court Administrator’s Office) with “social distancing” and hand sanitizer being the order of the day. Even though the Courthouse was completely closed to the public for a few weeks, the Vital Records Division saw the highest number of vital documents recorded in that office in over 20 years (875 more transactions than during 2019). In the Register of Deeds Office, documents recorded increased by nearly 5,000 in 2020 from the previous year while the Register collected more than \$7.7 million dollars in transfer taxes and fees. Both numbers are all time highs.

Commissioners, while the offices were quite busy providing record service to the people of Allegan County in 2020, what I am most proud of is that both offices remained available and accessible to the people who needed our services the entire year- in person whenever possible - by phone, email, U.S. Mail, and even meeting customers in the parking lot when the building was closed to the public. My staff offered phenomenal customer service despite COVID 19 fears. As you study the daunting numbers in this report, please keep in mind the hardworking deputy clerks and registers that were on the front lines of serving the County all year long.

Sincerely,

A close-up photograph of a handwritten signature in black ink on a light-colored surface. The signature is cursive and appears to read 'Bob Genetski'.

Bob Genetski  
Allegan County Clerk – Register

## Table of Contents

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Contents	Pages
To the Board of Commissioners	2
Office of the County Clerk:	
Elections Division	4-10
Vital Records Division	11-18
Circuit Court Records Division	19-23
Office of the Register of Deeds	24-31
Upcoming and Ongoing Projects, Issues and Challenges	32

The Offices of the Allegan County Clerk and Register of Deeds are open from 8 A.M. to 5 P.M. on weekdays. Both are located at:

The Allegan County Courthouse  
113 Chestnut Street  
Allegan, MI 49010

Deputy Clerks and Registers can be reached by phone: (269) 673-0450 for Vital Records, 673-3290 for Elections

(269) 673-0300 for Circuit Court Records

(269) 673-0390 for the Register of Deeds

County Clerk Bob Genetski is available at (269) 673-0291



# Office of the County Clerk

## ELECTIONS

For Michigan election workers, the 2020 Presidential Election was the World Series and the Super Bowl rolled into one as the Great Lakes State was considered a battle ground state & a swing state in the race for the White House all while hosting a high profile U.S. Senate race. County elections staff, working with local clerks, trained more election inspectors than ever before while clerks processed a record high number of ballots all in the midst of the COVID 19 outbreak.

### Elections Division Overview

The County Clerk is the chief election officer in Allegan County. While local jurisdictions run much of the day-to-day operations of elections, the Elections Division is responsible for the administration of elections, the accurate accumulation of countywide results, and maintaining election records. The Elections Coordinator collaborates with the staff of the County Clerk's Office, state agencies, other county clerks (across Michigan and throughout the United States), as well as township and city clerks throughout Allegan County. This work covers three basic areas related to elections: maintaining the Qualified Voter File, meeting the Campaign Filing and educational needs of candidates, and serving the election needs of Allegan County residents.

### The Qualified Voter File

The Qualified Voter File (QVF) is a state-run database of every legally registered voter in Michigan. To ensure the integrity of voter rolls for Allegan County residents, the Election Coordinator facilitates entry of newly registered voters, address updates, and removal of electors who have moved, who request to be removed from rolls or who have passed away.

## Elections Division

At a glance:

Chief Deputy Clerk: Jackie Porter

FTE's: 1

Coordinating Elections for:

45 "In-County" Precincts

10 "In-County" School Districts

% of Voter turnout in 2020:

26.55% in the March 10<sup>th</sup>  
Presidential Primary

24.11% in the May 5<sup>th</sup> Special  
Election (10 jurisdictions)

32.76% in the August 4<sup>th</sup> State  
Primary

**71.72%** in the November 3<sup>rd</sup>  
Presidential Election

Turnout in Raw Number of  
Voters:

23,554 for the March 10<sup>th</sup>  
Primary

4,424 for the May 5<sup>th</sup> Special  
Election

29,452 for the August 4<sup>th</sup>  
Primary

**67,489** for the November 3<sup>rd</sup>  
General Election

(Continued – Elections Division Overview)

The coordinator also communicates with other states to remove voters who move across state lines from the files. Maintaining the integrity of the QVF is essential to protecting the security of the vote.

### Campaign Finance

Maintaining the many election files that serve Allegan County candidates, residents, and the public at large is a constant effort. The Elections Division makes every effort to align Allegan County filing policies with the ever-changing Campaign Finance Law governed by the Bureau of Elections in Lansing.



Clerk Bob Genetski swearing in the Honorable Robin Phelps, Ganges Township Clerk. Phelps was elected to her first full term in November 2020.

During 2020, the Clerk’s Office oversaw and accepted campaign filings from 308 candidates and 4 ballot initiative groups while accepting candidate filings from dozens of “write in” candidates for city council, township office and school board.

## ELECTIONS AND THE PUBLIC

### 2020 Elections

The Elections Division and clerks throughout Allegan County rose to meet some huge challenges in 2020. Local clerks successfully administered four elections with “social distancing” due to COVID 19 concerns while wearing personal protective equipment, and dealing with unsolicited absentee ballot applications all while helping more people vote absentee than ever before and while the media regularly reported misinformation to the public regarding early voting and ballot drop boxes.

While various issues led to confusion among many voters- numerous senior election inspectors- the backbone of running quality elections south of Ottogan Street and north of Baseline Road, told clerks they would not be working in 2020 due to fear of COVID 19. This forced nearly every township and city to recruit new poll workers. Clerks in the cities of Saugatuck and Holland had to relocate longtime voting locations to keep voters a distance of six feet apart while other clerks had to alter where their poll lines had always been so that crowds were not standing too close to each other when voting.



#### ELECTIONS

**Voting changes, COVID-19 change Michigan election for clerks**



by: ANNA LIZ NICHOLS, The Associated Press/ Report for America  
Posted: Jul 12, 2020 / 08:02 PM EDT / Updated: Jul 12, 2020 / 08:02 PM EDT

LANSING, Mich. (AP) – Michigan county

(Continued – Elections and the Public)

The fact that the 2020 Elections ran as smoothly as they did is a true testament to local clerks from Laketown Township to Gun Plain from Leighton Township to Casco and all cities and townships in between as well as the County Elections Division.



*Dorr Township Clerk Debbie Sewers in the hazmat suit provided by the State for work during the COVID 19 elections.*

### **March 10<sup>th</sup> - the Presidential Primary**

The March Presidential Primary took place at the onset of the COVID 19 worries. County wide 23,554 voters cast ballots or 26.55% of the electorate. While the Republican and Democratic Presidential Primaries were the big draw on the ballot, voters had a few local issues to decide as well.

Allegan County administered school proposals for Glenn School District, a portion of the Van Buren County ISD, as well as the Dorr Library, the City of Allegan (which had 2), Monterey Township, and a bond issue for Saugatuck Public Schools that had been on the ballot twice before- but proved successful on its third attempt.

Allegan County Democrats supported Joe Biden over Bernie Sanders while Republicans overwhelmingly re-nominated Donald Trump who won 9,136 votes out of the 9,774 votes cast in that race.

Perhaps the biggest issue with managing the March election was the number of people who needed new ballots after candidates dropped out on the Democratic side. In one jurisdiction, one man needed to return his old ballot and request a new one five times.

Candidate	Total Votes
Joe Biden	7,572
Bernie Sanders	4,839
Mike Bloomberg	520
Pete Buttigieg	259
Elizabeth Warren	195
Amy Klobuchar	111
Tulsi Gabbard	109
Uncommitted & 8 others	187

(Continued – Elections and the Public)

### The May 5<sup>th</sup> Special Election

## Local schools adjust plans for May election



UNCERTAINTY – the biggest challenge in administering the May election was uncertainty. With fears of COVID 19 running high, rumors abounded at one point that Michigan would have an “all mail in” election with no polling locations open. Lansing went as far as to allow school districts and local governments who had proposals on May ballots to pull those proposals even though ballots had already been printed. Locally, Hamilton and Zeeland schools both pulled their bond issues off the May ballot amid the uncertainty (which also was affecting state budget and

unemployment projections).

Though only 10 jurisdictions participated, there were 4,424 voters (24.11%) who engaged in the election.

Caledonia Public Schools had a bond issue on the ballot as well as their operating millage. The proposal for Hopkins Public Schools Sinking fund passed 862 votes to 758. A bond proposal for Otsego Public Schools passed by 533 votes.

### The August 4<sup>th</sup> Primary Election

The State Primary Election on August 4<sup>th</sup> was one of the longest ballots in recent memory. The length of the ballot combined with the warm weather to create some issues with the tabulators, but the worries of COVID 19 and unprecedented absentee ballots were the biggest concerns.

A significant 29,452 Allegan County voters or 32.76% showed up to cast ballots.



*Clerk Bob Genetski with Scott Corbin, Director of the Allegan County Emergency Operations Center at Otsego City Hall. Corbin and his team supported local clerks with Personal Protective Equipment and by building Plexiglas windows to protect election inspectors from COVID.*

(Continued – Elections and the Public)

Democratic Primary		Republican Primary	
U.S. Congress 6 <sup>th</sup> District		U.S. Congress 6 <sup>th</sup> District	
<b>Jen Richardson</b>	<b>4,627</b>	<b>Fred Upton</b>	<b>12,003</b>
Jon Hoadley	3,309	Elena Oelke	5,810
State Representative 72 <sup>nd</sup> District		State Representative 80 <sup>th</sup> District	
<b>Lily Cheng-Shulting</b>	<b>752</b>	<b>Mary Whiteford</b>	<b>11,501</b>
Cade Wilson	497	Nevin P. Cooper-Keel	2,653

Some of the contested primary races were spirited, and some had very close results on both sides of the aisle.

Voters were in a very cautious mood on school and local proposals as the AAESA Operating Millage passed by less than 800 votes (out of 16,893 cast). Hamilton voters defeated a school bonding proposal by 1,150.

Hopkins Township Voters shot down a Road Improvement Proposal by 56 votes.

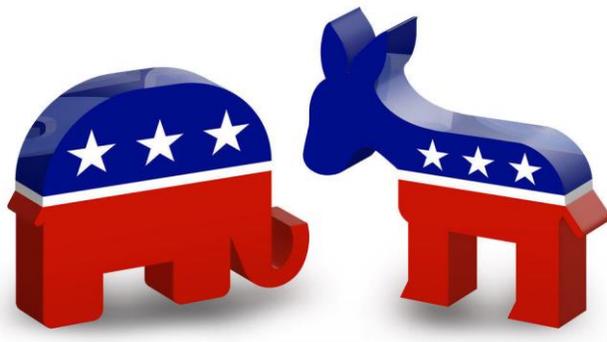
At the same time, many of the millage and proposal ideas that passed had smaller majorities than usual. The Operating Millage for Wayland Union Public Schools passed by only 10 votes.

Of note, voters in the Village of Hopkins approved a new Village Charter Revision Proposal 104-29.

Issues with tabulators meant that some results were not available until early the next day. The Elections Division did not leave for home from the Allegan County Courthouse until roughly 5:30 A.M.

Republican Primary for Allegan County Prosecuting Attorney	
<b>Myrene Koch</b>	<b>8,864</b>
Michael Villar	8,847

*The GOP Primary for Prosecuting Attorney decided by a 17 vote margin, but the Wayland Union School District Operating Millage was closer – passing by only 10 votes.*



### The November 3<sup>rd</sup> Election

Preparations for the 2020 Presidential Election began almost immediately after the primary. Expectations of record turnout, huge absentee ballot numbers and COVID 19 protocols challenged the Elections Division and local clerks to prepare for everything. As such, the

County Clerk’s Office went from supporting 5 Absentee Voter Counting Boards in November 2019 to 22 for the Presidential Election – this means training more election workers and more programming at the Courthouse.

Despite all of the preparation, Election Day still offered the unpredictable.

(Continued – Elections and the Public)

Police had to be called to handle disturbances at Valley Township Hall, Cheshire Township Hall and Leighton Township Hall where at least one individual was taken to the Allegan County Jail. The local clerk’s efforts to remove an activist from the front of a precinct landed the incident (and the clerk) all over YOUTUBE and FACEBOOK leading to hundreds of nasty phone calls to the clerk and the township.



*Voters - socially distanced - wait in line on the footbridge leading to Plainwell City Hall on November 3<sup>rd</sup>.*



A medical emergency at Otsego City Hall created a challenge when the individual refused to leave without voting despite passing out. Upon passing out a second time, EMT’s insisted on rushing her to the hospital while the individual protested... loudly in the precinct. Because the woman showed symptoms of COVID 19, the entire precinct had to be shut down and voting stopped (which triggers a call to Lansing) while the local clerk and her elections team disinfected everything at the location.

Voter turnout was unprecedented throughout the county. Of the 94,103 registered voters, 71.72% (or 67,489) cast ballots on November 3.

Between social distancing and turnout, some jurisdictions had lines of voters all day long – Dorr and Manlius Townships had lines of voters out the precinct door for as much as two hours after 8 P.M. when the polls closed.

Accommodating issues from the highest voter turnout (in raw numbers) ever meant that some results would not arrive at the County Clerk’s Office until roughly 7:30 AM – just a few hours before the Board of Canvassers convened. This meant the staff at the County was at the Office and on the clock from 6 A.M. on November 3<sup>rd</sup> until 5 P.M. on November 4<sup>th</sup>. Despite the many challenges of the day, the Election Division’s efforts were recognized by WHTC radio AM 1450 in Holland for putting results online a lot earlier than some other counties. Allegan County voters chose Republican candidates in every race – federal, state, county and in contested township races. Residents gave Donald Trump 41,392 votes over Joe Biden’s 24,449. The GOP nominee for U.S. Senate John James bested Democrat Gary Peters 42,362 to 22,939.

*Voter Turnout in Allegan County for the November 2020 race set a record.*

Percentage of Voter Turnout	Election Year
<b>71.72%</b>	<b>2020</b>
71.6%	2004
70%	2008
67%	2016
66.9%	2012
65.7%	2000
61%	1996

(Continued – Elections and the Public)



The top vote earner in Allegan County races was County Clerk-Register of Deeds Bob Genetski with 49,176 votes.

CONTESTED NON-PARTISAN RACES: In the race for State Supreme Court, voters chose the incumbent justice and Mary Kelly with 25,594 and 20,395 votes respectively. Voters in the City of Holland chose Juanita F. Bocanegra for the 58<sup>th</sup> District Court seat by just over three hundred

votes. Races for city council, village council as well as school board seats and board members for Lake Michigan College and Grand Rapids Community College were decided as well as numerous proposals.

**THANK YOU!** The County Clerk's Office owes a great debt of gratitude to the Allegan County Department of Information Services for their outstanding support every Election Night. Patti Wartella & Deb Jones of County IS have been an important part of the elections team. Deb has done great work to ensure our election results can be posted to the county website and has very much improved the look and accessibility of our posted results. Patti is in the office late into Election Night ensuring that elections results can be transmitted to the County, properly accumulated and posted to the website. The Elections Division is grateful for their service.



# VITAL RECORDS

## Division Overview

The Vital Records Division assists Allegan County residents with filing and obtaining birth certificates, marriage certificates, death certificates, and genealogy research.

In addition, the Division assists with applications for concealed pistol licenses (CPL's), the recording of home births, notary applications, business registrations (DBA's) and provides the free service of registering military discharge papers (otherwise known as DD 214's).

Certified copies of certificates can be obtained by visiting our office between 8 AM and 5 PM, Monday through Friday. If someone is unsure of a record, phoning first at (269) 673-0450 is never a bad idea. Application forms for many of our services can be found online at: <http://cms.allegancounty.org/sites/Office/Clerk/VitalRecords/SitePages/Home.aspx>

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VITAL RECORDS DIVISION / QUICK FACTS	
Chief Deputy Clerk – Jackie Porter	FTE's – 2
Earliest Records on File:	
September 1 <sup>st</sup> , 1835 County Organized (within the "Michigan Territory")	
December 17 <sup>th</sup> , 1835 First Marriage License	
June 25 <sup>th</sup> , 1836 Circuit Court Records	
October 4 <sup>th</sup> , 1836 Board of Supervisors Proceedings	
January 24 <sup>th</sup> , 1867 First Birth Recorded	
February 13 <sup>th</sup> , 1867 First Death Record (William Collman of Cheshire, died at one year, one month and 5 days. Cause of death: "Too Powerful Medicine")	

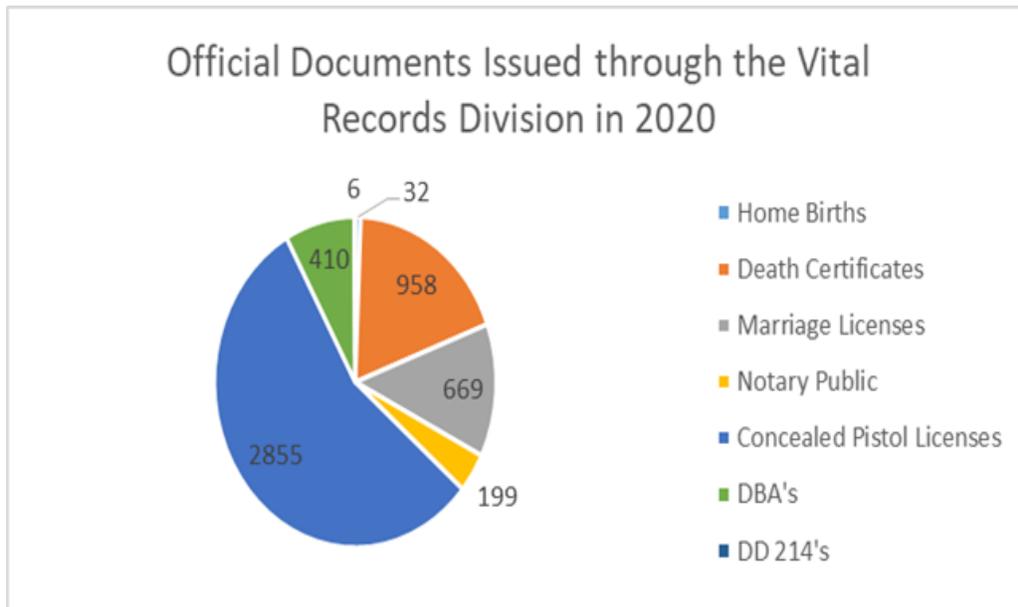
Despite the challenges of COVID 19 and the Courthouse even being closed to the public for a few weeks, the hard working deputy clerks recorded 5,129 vital documents in 2020 – a gain of 875 over the 2019 number. Concerns over the virus led to obvious declines in marriage licenses and DBA's, but the overall number was buoyed by a surge in Concealed Pistol Licenses as well as increases in death certificates and in home births.

The Vital Records Division processed 2,855 CPL's on the year, the most ever at 113 Chestnut Street. The other increases were in death certificates and home births that saw 140 more and 10 more respectively than in 2019.

Every other product recorded in the Office declined in 2020. Marriage licenses dropped by 106 from 2019. Year over year, there were 10 fewer military papers of Honorable Discharge recorded. Notary Public applications dropped by 63 while business license applications for people doing business under an assumed name were down by 98 in 2020 from the previous year.

Year	Number of Transactions
2016	4,389
2017	4,210
2018	4,356
2019	4,254
2020	<b>5,129</b>

(Continued – Vital Records)

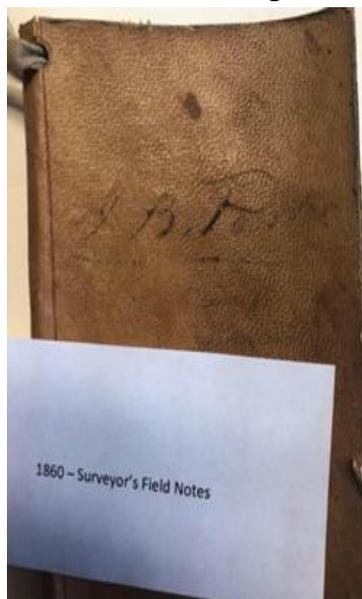


As has been the case since 2009, Concealed Pistol Licenses accounted for more than any other transactions in the Clerk's Office during 2020. County residents paid for 2,855 CPL's –over 1,000

more than in 2019 and nearly 56% of all transactions for 2020. Death Certificates accounted for the 2<sup>nd</sup> highest number of records generated at 958. There were 669 Marriage Licenses recorded coming in 3<sup>rd</sup> on the list, so COVID 19 concerns did not dampen everyone's love life. DBA's were the fourth most used service as there were 410 filed by county residents in 2020. With 199 applications for Notary Public, that product came in 5<sup>th</sup> among the seven. Home births at 32 and DD 214's with 6 recorded were the fewest records created in 2020 – a trend going back to 2008.

Did you know that Allegan County has many original records dating back to the 1800's?

The pictures below are of the Field Notes of the Allegan County Surveyor's work from 1860.



(Continued – Vital Records)

Trends in Live Home Births

Since 2009, there are no longer any “birthing hospitals” in Allegan County. So, except in the case of emergencies, the only birth certificates initiated in the County Clerk’s Office are those for “live home births”. Due to a recent change in the law, fewer and fewer of the little cherubs come to the Courthouse with their parents for physical verification. In most cases now, the midwife performs the verification and files directly with the state. When the birth record is generated, one copy is recorded with the County and the other is on file with the Michigan Department of Health and Human Services – State Office of Vital Records.

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020
Births Recorded	19	12	27	25	30	29	35	22	32

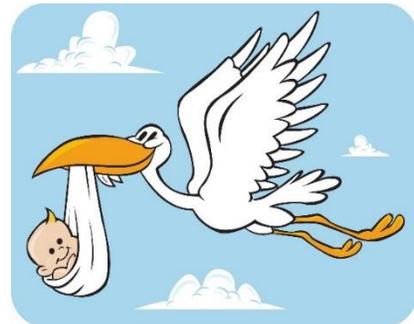
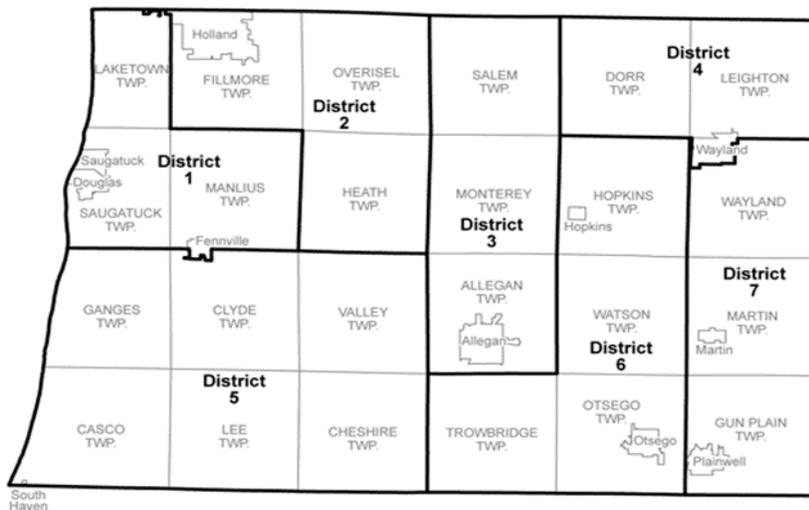
*Trends in home births: The number*

*of home births in Allegan County increased from 22 in 2019 to 32 in 2020. That means last year the County had the 2<sup>nd</sup> highest number of home births it has had in the last ten years.*

**Geography of Home Births in Allegan County:** When the number of home births is broken down by the seven County Commission Districts, the midwife was the busiest in Commissioner Dugan’s District 6 where 8 home births occurred. Districts 2 & 3 home to Commissioners Thiele and Storey logged the second highest number at 7 each.

Live births broken down by County Commission District:

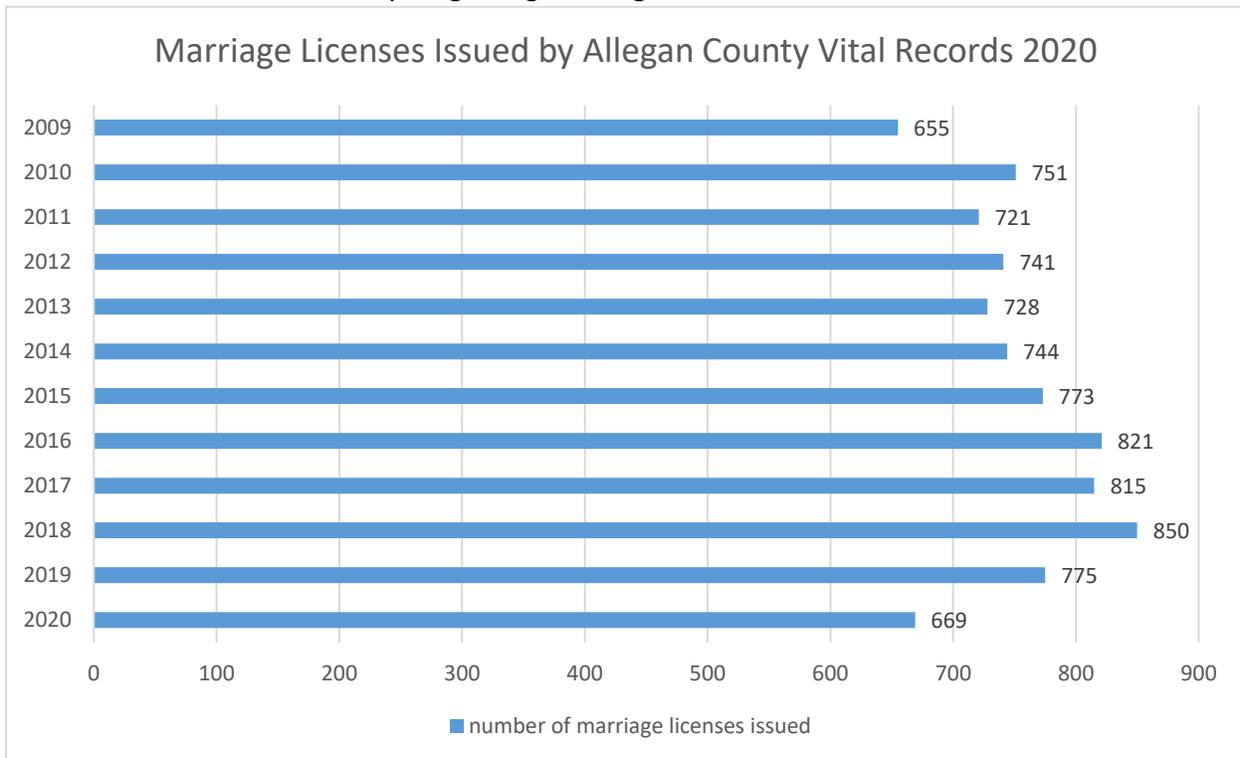
- |                          |                          |                       |
|--------------------------|--------------------------|-----------------------|
| District 1 (Kapenga) – 4 | District 4 (DeYoung) – 1 | District 7 (Cain) - 3 |
| District 2 (Storey) -- 7 | District 5 (Jessup) - 2  |                       |
| District 3 (Thiele) -- 7 | District 6 (Dugan) - 8   |                       |



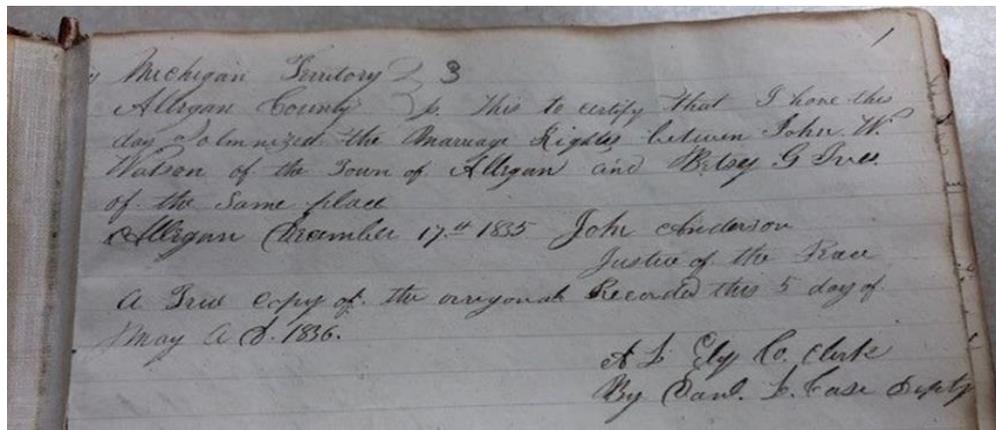
(Continued – Vital Records)

### Trends in Marriage License Applications

For the second year in a row, the number of Allegan County residents seeking to join in marriage declined dropping to 669 from 775 in 2019. These declines come after the 20 year high of 850 marriage licenses applied for was hit in 2018. The 669 of 2020 represent the second lowest number of couples getting marriage since 2009's number of 655.

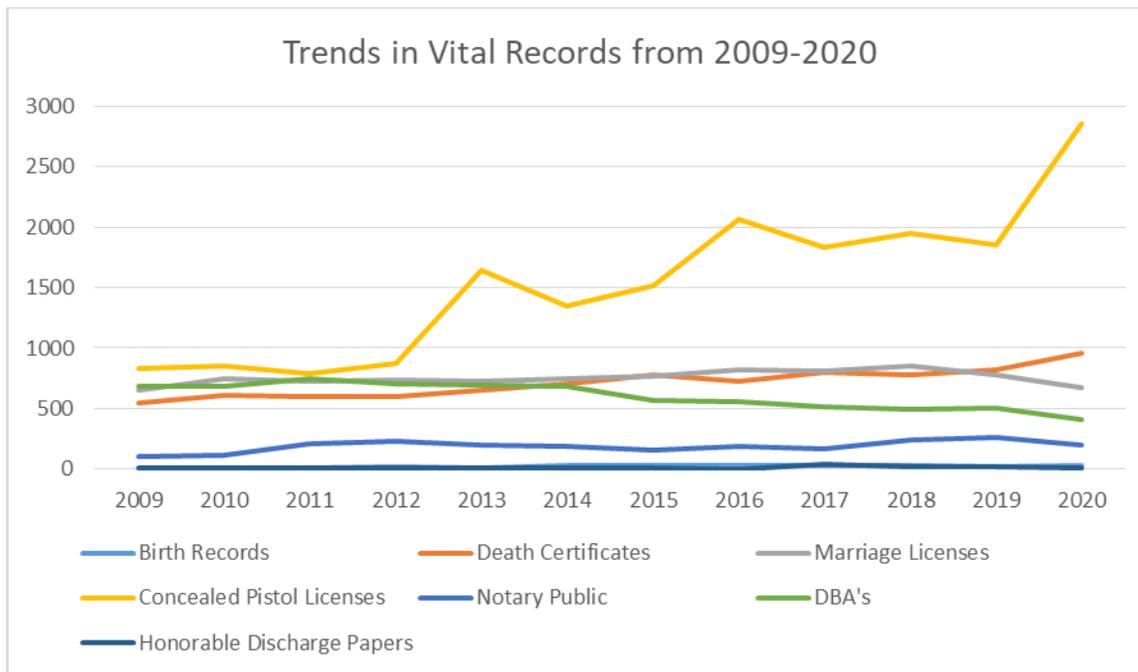


Did you know??? The earliest recorded marriage license in the vault at the County Clerk's Office is for a marriage in the in the "Michigan Territory." The marriage of John W. Watson of Allegan to Betsy Ives of Allegan occurred on December 17th, 1835 and was solemnized by Justice of the Peace John Anderson. The certificate was recorded in May 1836 with County Clerk A. L. Ely.



(Continued – Vital Records)

### Trends in Vital Records Transactions



A twelve year history of requests through the Vital Records Division shows that only the number Concealed Pistol License applications varies greatly over the years. From 2009 through 2020, CPL applications increased by 2,025 (830 in 2009 to 2,855 in 2020). Notary Public Applications fluctuated during that same period with a low of 100 in 2009 to a high of 262 recorded in 2019. Home Births in Allegan County ranged from as few as 11 in 2009 to a high of 35 in 2018, coming in at 32 in 2020. There were 958 death certificates recorded in 2020 – a 12 year high. The number of deaths recorded follows the county’s population increases as there were only 547 logged in 2009 – the twelve year low.

After a year over year increase from 2018 to 2019 in applications for DBA’s (or business licenses for doing business under an assumed name) such applications declined by nearly 100 in 2020, dropping from 508 in 2019 to 410 – not surprising given the COVID 19 concerns.

The number of Veterans’ Discharge Papers (DD 214’s) filed with the Office dropped through the floor in 2020. This was to be expected. The average age of a veteran who comes into the Courthouse to file such paperwork is typically between 60 and 80 years of age and COVID 19 deterred a lot of customers from doing business in person. After processing a 20 year high of 44 in 2017, only 16 DD 214’s were registered with the Clerk in 2019, and the number dropped down to six in 2020.

(Continued – Vital Records)

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Sports

**Allegan County clerk urges veterans to file discharge papers**

By Sentinel Staff  
Posted at 11:02 AM

ALLEGAN COUNTY — The Allegan County clerk's office processed two dozen honorable discharge papers from military veterans in 2018.

This is the second-highest number of DD 214's, Certificate of Release or Discharge, filed with the office since 2005 when the office started tracking them. The highest number of papers filed in Allegan County was 44 in 2017.

"In the last two years, we have processed more veterans' discharge papers than the previous seven years combined," said Bob Genetski, Allegan County clerk. "Our campaign to help veterans connect more easily with benefits they have earned is working."

Trends in Filing of DD 214's for our Veterans

One of the most important (and least known) services the Vital Records Division offers is the recording of military discharge papers otherwise known as DD 214's. Most often, when U.S.

Military Veterans return to civilian

life, they are given only one copy of their papers of honorable discharge. If the papers are lost or destroyed, the federal government can be very difficult to deal with when a veteran tries to replace the originals.



*It was an honor to thank David Low of Wayland for his service to our country during W.W. II.*

These papers are extremely important for veterans as they obtain VA benefits, GI Bill benefits, and even to obtain the "Veteran" designation on a Michigan Driver's License.

For this reason, the Office of the County Clerk is encouraging all Allegan County veterans to file their papers of honorable discharge with our office. It's a quick process; it's FREE; and it gives veterans and their families peace of mind.

When a veteran comes in to file his or her honorable discharge papers, he or she will receive the original papers back, a certified copy, and the individual will have access to free certified copies for any of their needs for the rest of their life. As well, none of the information

(even whether or not the document is one file) on the DD 214 available to the public.

*A ten year history of DD 214 filings.*

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number Filed	11	10	5	7	4	1	44	24	16	6

(Continued – Vital Records)

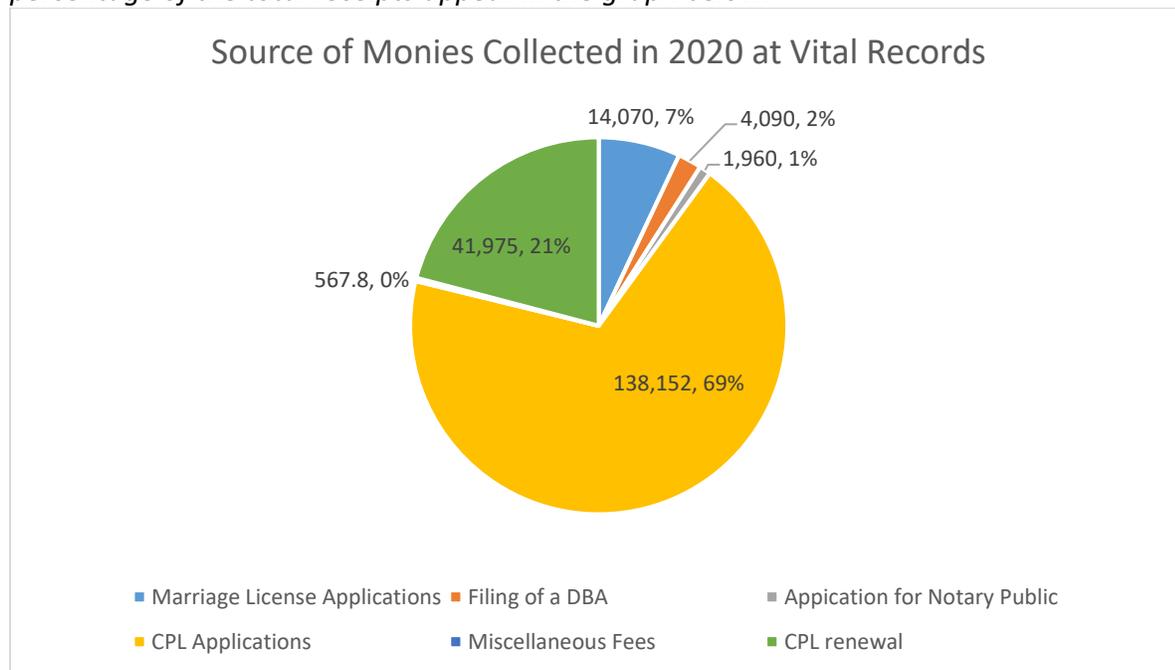
### \$\$\$ Where the Money Comes from and Goes... \$\$\$

The Vital Records Division took in \$200,814.80 from the following sources:

- |  |                                      |
|--|--------------------------------------|
| Marriage License Applications – Fee of \$20  | Filing of a DBA – Fee of \$10        |
| Application for a Notary Public – Fee of \$10  | (new) CPL Application – Fee of \$100 |
| CPL renewal - Fee of \$115   | Miscellaneous Fees* - Fee of \$10    |
| Certified Copies (of Marriage Certificates, Death Certificates, and Birth Certificates) - Fee of \$10 (first copy), \$4 for each subsequent copy |                                      |

*\*Fees for things such as replacement of a lost CPL Card etc.*

*Of the \$200,814.80 collected in the Vital Records Division during 2020, the source and percentage of the total receipts appear in the graph below.*

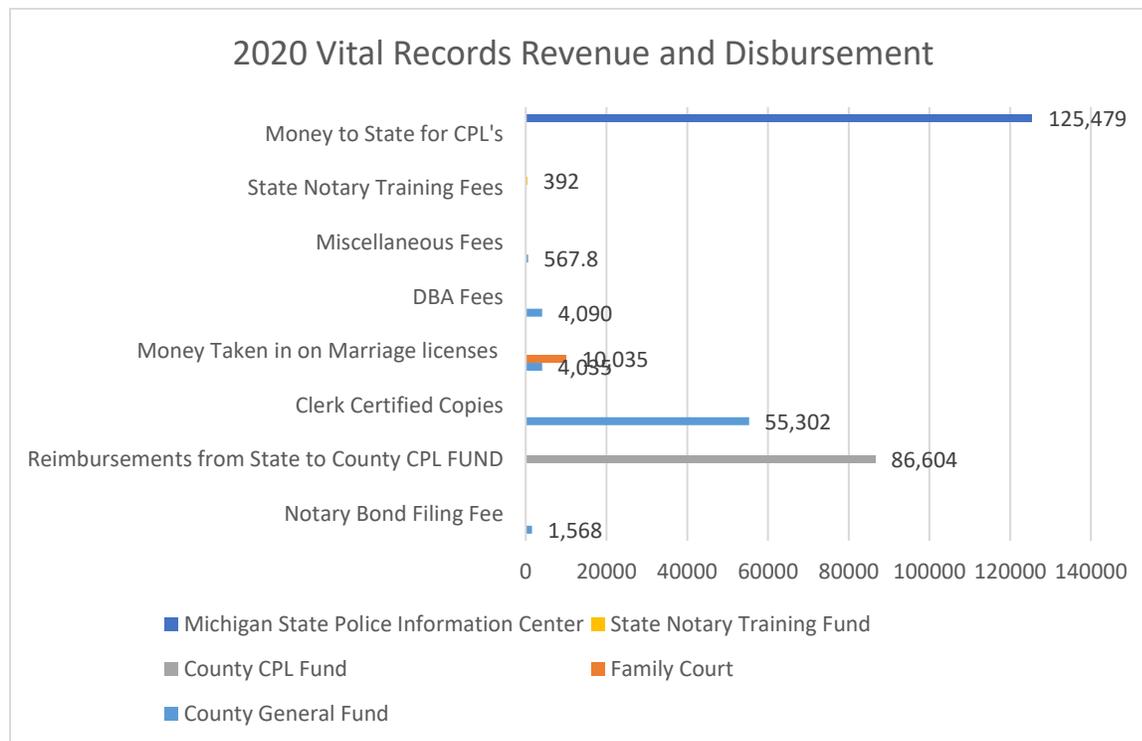


In 2020, new CPL applications were the number one product making up 69% percent of the revenue at \$138,152. Renewals for CPL's took in the second most money accruing \$41,975 and representing 21% of receipts. Marriage license applications took in \$14,070 or 7% (of the total) while DBA's brought in \$4,090 at 2% of the total monies. Applications for Notary Public were 1% of last year's total at \$1,960, and miscellaneous fees earned closer to 0 percent at \$576.80.

(Continued – Vital Records Division)

Fees collected in the Vital Records Division are deposited into different accounts - three at the county level and two at the state level. The accounts are: Allegan County's General Fund; the County CPL Fund (use to pay for staff who process CPL applications) which receives \$26 (of \$100) for each new CPL application and \$36 (of the \$115) for each renewal; the Michigan State Police Information Center receives \$74 for a new CPL application and \$79 for a renewal (for the cost of background checks for CPL applicants), and \$2 of the \$10 notary application fee goes to the State Notary Training Fund. The rest goes to the County General Fund. Marriage License Fees are split with \$5 of the \$20 going to the County General Fund and \$15 gets sent to Family Court for marriage counseling.

The breakdown of where all the monies end up looks like this:



The Office took in \$200,814.80 on sales for the year 2020- most of it ended up with the Michigan State Police, in the County CPL Fund, Family Court and the General Fund with only \$392 going to the State Notary Training Fund.

On December 3rd of 2018, the State of Michigan began to offer CPL renewals online. CPL holders continue to receive their renewal notice by mail. The letter informs them of how they may renew online at Michigan.gov/CPLrenewal through use of a PIN included in the letter. This saves CPL holders a trip to the County Clerk's Office and has been very popular with county residents so far. Allegan County continues to receive the \$36 for each renewal whether the customer does so in person or online.

## CIRCUIT COURT RECORDS

### Division Overview

The Circuit Court Records Division of the Clerk’s Office is the fundamental access point to the 48th Circuit Court for all parties in a civil, criminal or Family Court matters. This office is where customers have their first interaction with the court system. The talented deputy clerks work hard to make any experience at our service window as seamless and pleasant as possible by providing access to public court records and by answering questions regarding procedures, access to court related resources, Friend of the Court and the Legal Assistance Center.

The Office is also the point of entry for those called to Circuit Court jury duty.

Our services include processing documents necessary to initiate new cases filed with the Court as well as receiving, reviewing, and processing all documents pertaining to pending legal matters before the Court, pulling records for the scheduled hearings, and clerking in the courtroom. Our staff is friendly and polite – emphasizing customer service- knowing that many of the people who need our service might be navigating a complex legal system for the first time.



#### Reporting to State Agencies

The Circuit Court Records Division is responsible for reporting all convictions of a felony, high court misdemeanor or probation violation to numerous state agencies. Depending on the situation, the Office might communicate with the Michigan Secretary of State, Michigan State Police, and/or the Michigan Department of Corrections. These reports help create accurate records for the public to access at the state level. In addition, all cases involving a motor vehicle are abstracted to the Secretary of State so the state may take necessary actions to uphold and protect the citizens of Michigan.

### CIRCUIT COURT RECORDS DIVISION QUICK FACTS

Chief Deputy Clerk: Jackie Porter

FTE’s: 6 (6.5 approved)

Circuit Court Records provides the essential framework behind the scenes for the 48<sup>th</sup> Circuit Court by collecting and disbursing monies to many circuit court, county, state, nonprofit, and private sector accounts involving:

Restitution, attorney fees, bonds, Victims’ Rights Fund, fines, state minimum costs, filing fees, motion fees, jury trial fees, garnishment & subpoena fees. **In 2020, the Circuit Court Clerk’s office collected approximately 1.2 million dollars.**

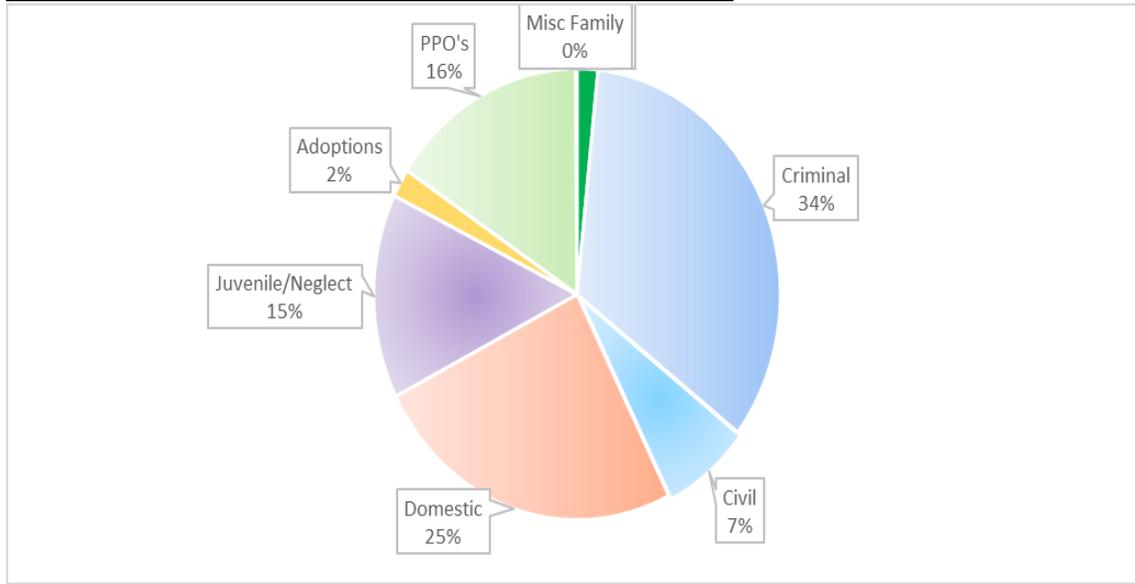
The Division serves as a pass through entity whereby restitution payments are collected and sent to victims of crimes

The Division is also responsible for processing adoptions.

Individual deputy clerks from this office serve as clerks in hearings of the 48<sup>th</sup> Circuit Court.

(Continued – Circuit Court Records)

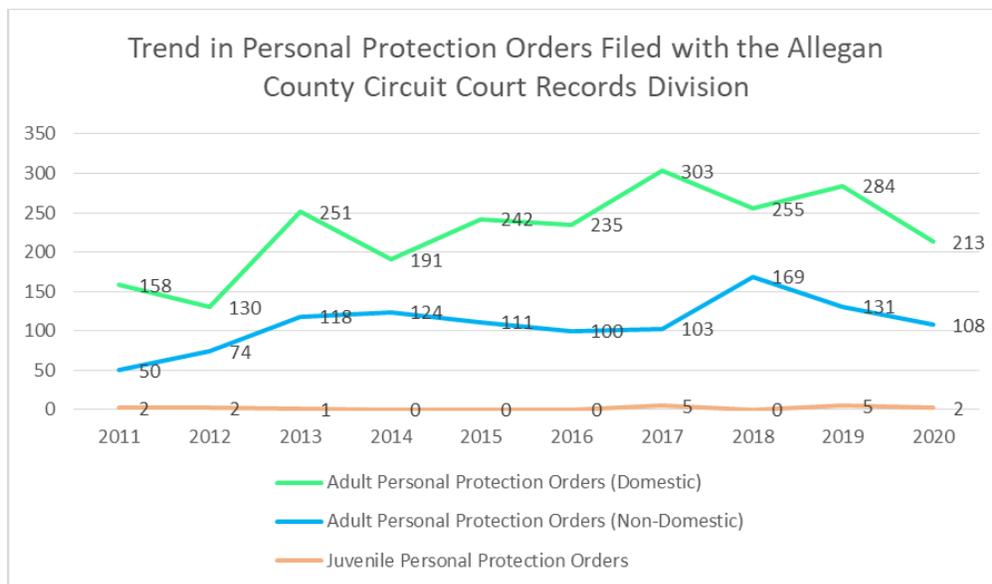
**Overview of New Cases Filed in the Circuit Court in 2020**



Appeal: 34 Criminal: 698 Civil: 146 Domestic 515  
 Juvenile/Neglect 303 Adoptions: 42 PPO's 323 Misc. Family 2

**Personal Protection Orders**

Personal Protection Orders in Allegan County are filed with the deputy clerks in the Circuit Court Records Division. The number of Adult PPO's (domestic) decreased in 2020 to 213, down



from 284 in 2019. Non-domestic PPO's also dropped from 131 to 108 in 2020. Juvenile PPO's declined to only 2 from 5 the year before.

(Continued – Circuit Court Records)

Adoptions

*Trends in Adoptions over the last 10 years.*

Year	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011
Adoptions	42	74	36	45	46	68	55	84	121	105



*Due to concerns of COVID 19, perhaps the most popular event at the Courthouse, Judge Buck's "National Adoption Day" ceremony needed to be moved online. In years past, the public & media would be invited into the Courtroom for the rare, public once a year event.*

The adoption process in Allegan County begins in the Circuit Court Records Office. Deputy Clerks work with petitioning parents, Family Court, agencies and attorneys to facilitate the process. While all adoptions in Michigan are closed, once a year the Clerk's Office participates in "National Adoption Day" during which families participate in a public ceremony at the Courthouse. This ceremony is one of the most moving and heartwarming events each year anywhere in Allegan County.

Adoptions in Allegan County were down by 32 in 2020. The nine year high is 121 children adopted attained in 2012.

Year	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011
Juvenile/Neglect Cases	303	349	387	474	502	667	530	732	762	1,011

*Trends in Family Court Filings (other than adoptions) in the Circuit Records Division*

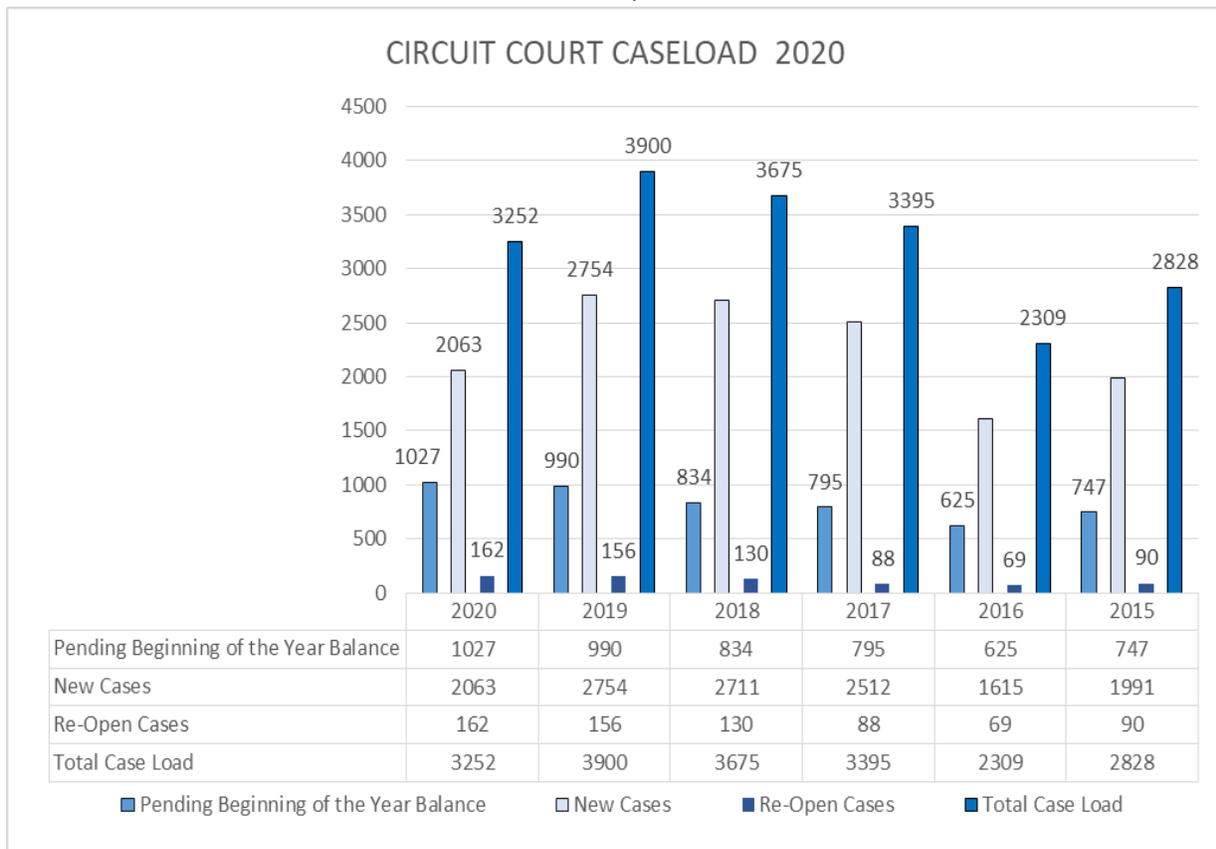
(Continued – Circuit Court Records)

Friend of the Court

This Division interacts with the Friend of the Court as well. The Office processes family cases initiated by F.O.C. and can also attest a “true copy” of a Friend of the Court order.

Annual Report to the SCAO

The Michigan State Court Administrator’s Office annually requests of all counties a caseload report that identifies important case data, such as the number of new cases filed each year as well as the age of each case from the initial filing date to the date of disposition. Each year, the Circuit Court Records Department helps prepare and submit this data to the state. The Clerk’s Office collaboratively works with the Circuit Court staff to review these statistics and improve upon the previous year’s data. Improvements to our procedures help to ensure that our residents are satisfied with their overall court experiences.



*“As with most departments, the clerk’s office has had to adjust a ‘new normal’ in 2020, learn new procedures, and come up with innovative ways to do things to keep the court docket moving as much as possible. Despite these challenges the level of service to the Court and the public has remained high, and the level of cooperation between the Court and Clerk’s Office is excellent.” -The Honorable Roberts Kengis, Judge of the 48th Circuit Court*

(Continued – Circuit Court Records)

Collection and Disbursement of Monies for the Court

The Clerk’s Office is responsible for receipting in all payments for the 48th Circuit Court. This includes all statutorily mandated fees and court ordered fines, costs, restitution and juvenile delinquent fines for family court. These payments may be made at the Circuit Court Records window or online.

For 2020, the Circuit Court Records Division received \$236,431.88\* in collections for Adult Cases and disbursed \$237,369.06\*\* to crime victims. At the same time, collections from Juveniles was \$14,848.05 while \$22,387.44 was remitted by the office to crime victims.

\* This is the second highest amount collected in the last five years.

\*\* This being the second highest amount disbursed in the last five years.

Adult	2015	2016	2017	2018	2019	2020
Beginning Balance:	\$16,964.20	\$17,990.13	\$10,394.26	\$2,337.46	\$29,515.73	\$51,277.27
Collections:	\$113,272.40	\$124,020.00	\$245,026.56	\$186,124.09	\$210,500.72	\$236,431.88
Total:	\$130,236.60	\$142,010.13	\$255,420.82	\$188,461.55	\$240,016.45	\$241,559.15
<b>Disbursed to Victims:</b>	<b>\$116,469.11</b>	<b>\$131,856.73</b>	<b>\$253,083.30</b>	<b>\$185,945.82</b>	<b>\$188,739.18</b>	<b>\$237,369.06</b>

Juvenile	2015	2016	2017	2018	2019	2020
Beginning Balance:	\$49,607.55	\$43,119.45	\$7,922.64	\$7,729.07	\$16,718.87	\$7,539.39
Collections:	\$18,217.69	\$17,507.67	\$15,029.98	\$24,125.67	\$15,474.47	\$14,848.05
Total:	\$67,735.24	\$60,627.12	\$22,952.62	\$31,854.74	\$32,193.43	\$22,387.44
<b>Disbursed to Victims:</b>	<b>\$24,660.79</b>	<b>\$52,704.48</b>	<b>\$15,233.56</b>	<b>\$15,135.87</b>	<b>\$24,654.96</b>	<b>\$15,168.71</b>

The Circuit Court Records Division processed 355 jurors for the 9 jury trials held in the 48<sup>th</sup> Circuit Court in 2020. This duty entails checking in jurors, the selection process, and orchestrating reimbursements for jurors’ service. The Supreme Court Order issued on June 26, 2020 paused all jury trails. A subsequent Administrative Order allowed in-person trials in jurisdictions where certain public health criteria were met relative to COVID 19 cases. Allegan County was able to hold two jury trials under such parameters before MDHHS decided that the conditions posed a public health risk.



## Other Duties and Responsibilities of the County Clerk

The County Clerk serves (along with the County Treasurer and in Allegan County's case the Chairman of the Board of Commissioners) on the County Plat Board.



*The Plat Board met once in 2020. The socially distanced members voted to approve plans for a Leighton Township development.*

The Clerk also serves as a member of the County Election Commission along with the Probate Judge and Treasurer. The Election Commission was rather busy in 2020.

As well, the Clerk serves as Secretary to the Board of Canvassers.

Finally, the County Clerk serves as Clerk to the Allegan County Board of Commissioners.



# Office of the Register of Deeds

By Law, the Register of Deeds is the “keeper of Public Record” for land documents. The recording of a document with this office does not make the document legal. The action of recording makes the document public.

## Division Overview

The Office of the Register of Deeds records all documents pertaining to real property including deeds, mortgages, liens, powers of attorney, certificates of trust; federal, state, and MESC tax liens; master deeds and plats; sheriff’s deeds and redemption certificates.

The hardworking deputies in the Register’s Office must be familiar with more than 200 different types of legal documents and the unique statutes for recording each of them. Our staff works closely with attorneys, real estate agents, banks, title agencies and the public. The number one goal is to provide customer service – polite, professional, accurate and timely.

The year 2020 was record breaking in the Register’s Office. The number of documents recorded soared from the previous year, and the office collected over \$7 million dollars in taxes and fees.

### Register of Deeds Office Quick Facts:

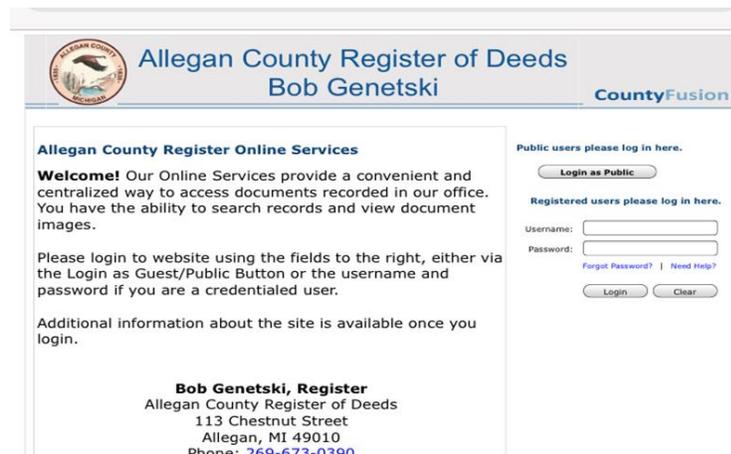
Chief Deputy Register: Patty Fales

FTE’s: 4 (with a combined 99 years of experience in recording)

Money collected during 2020 (including State Transfer Tax): \$7,729,959.65\*

Total documents recorded in 2020: 27,878 (4,951 more than in 2019)

Records available: from 1835 to present



The webpage shown here is the new online searchable database where customers can search for and purchase copies of deeds from their homes.

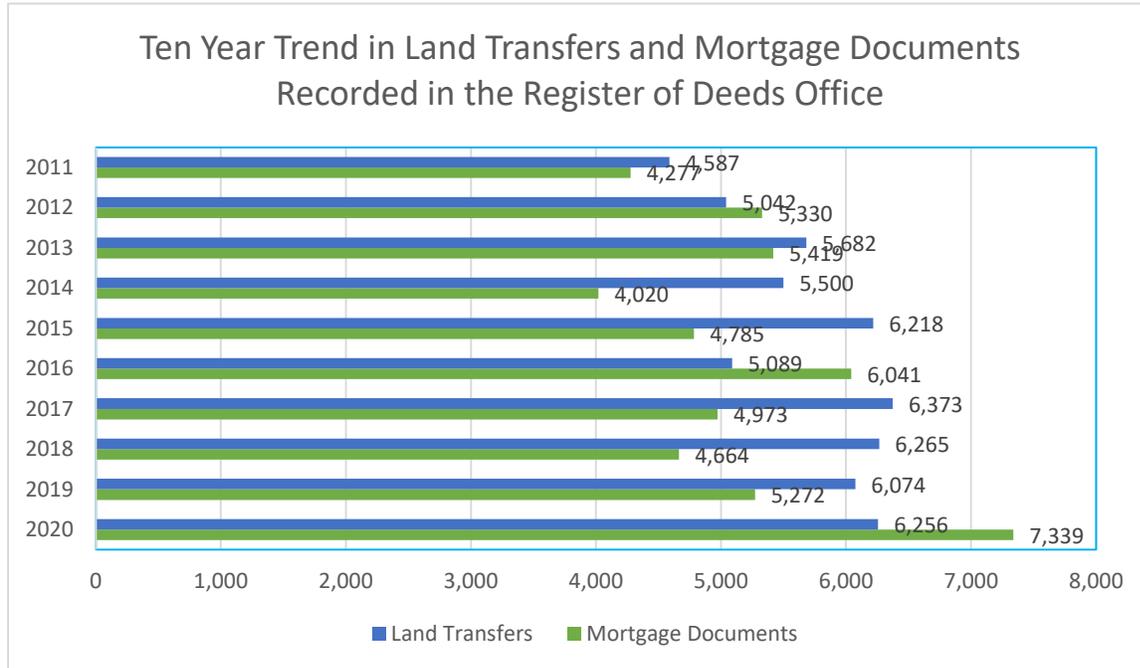
It was the first full year of the County’s new record system which increased efficiency and effectiveness in the office.

The new technology includes the long awaited service of an online searchable database for land records that allows customers to search on the Internet and purchase copies on record 24 hours a day from any location with internet service.

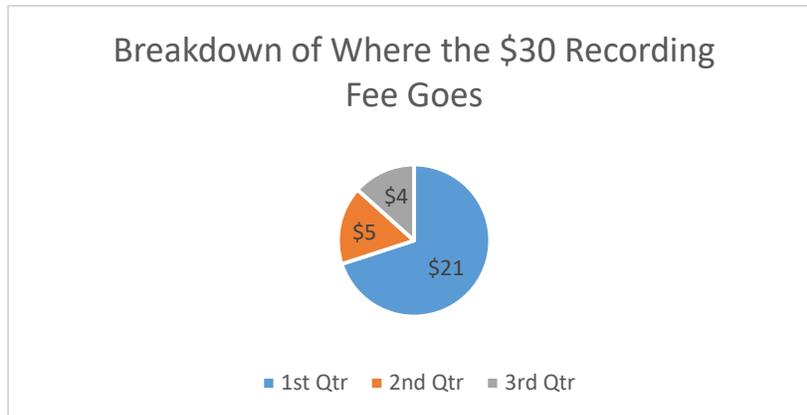
(Continued – Register of Deeds)

Document Recording

The total number of documents recorded in 2020 was 27,878 – an increase of 4,951 over the 22,927 recorded in 2019.



*Trends in Documents Recorded:* The two most often recorded documents at ROD are Land Transfers and Mortgage Documents, and the two drive the overall number of recordings. In 2020, customers recorded 7,339 mortgage documents (up from 5,272 the year before). Land Transfers for the same period were up to 6,256 from 2019’s 6,074. Over the last ten years, 2019 saw the lowest number of total recordings at 22,927. The ten year high occurred during 2020 (27,878 documents recorded) besting the previous high of 27,146 from 2012.

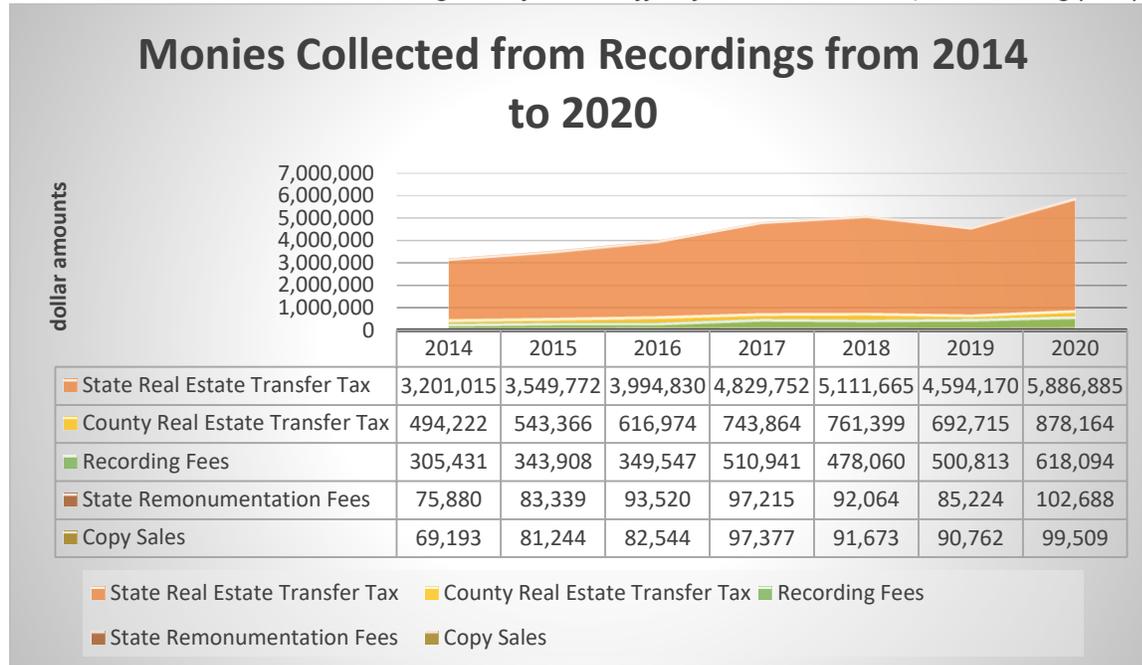


*With each document recorded at the Register of Deeds, the Office collects \$30. Of that amount, the County General Fund receives \$21 while \$5 of that goes to the County Automation Fund (for upgrading technology in the Office). The remaining \$4 goes to the State Remonunmentation Fund.*

*The recording fee was set by the Legislature (implemented in 2016) at \$30. Prior to that, the fee was \$14.*

(Continued – Register of Deeds)

*Trends in Monies Collected in the Register of Deeds Office from 2014 – 2020 (not including passports)*



The chart above shows a breakdown of total monies collected in ROD from 2014 through 2020. The total amount taken in for the year 2020 was **\$7,729,895.70**. Receipts from transfer taxes, fees, and sales all increased from 2019 to 2020. Real Estate Transfer Tax (State) collected climbed from \$4,594,170 to \$5,886,885 (a \$1,292,715 jump). County Transfer Tax receipts were \$878,164, an increase of \$185,449 over the previous year’s \$692,715. The Register of Deeds Office believes that **all of the 2020 receipts are all-time records for Allegan County**.

Definitions:

**State Real Estate Transfer Tax:** collected on all deeds recorded and sent to the State of Michigan – **1.5% of this is sent to the County General Fund** as an administrative fee (**\$88,303.28 for 2020**).

**County Real Estate Transfer Tax:** collected on all deeds recorded and sent to the County General Fund.

**Recordings Fees:** collected on every document recorded (of the nearly 200 hundred different types of documents) most of which goes to the County with a small portion going to the state (see the pie graph on the previous page for a breakdown).

**Remonumentation Fees:** collected on every document recorded (with the exception of State Liens, Federal Liens, County Treasurer documents and MESC Liens) and sent to the state for the cost of surveying land corners. The monies are collected as part of the \$30 recording fee with the County General Fund receiving 1.5% as an administrative fee.

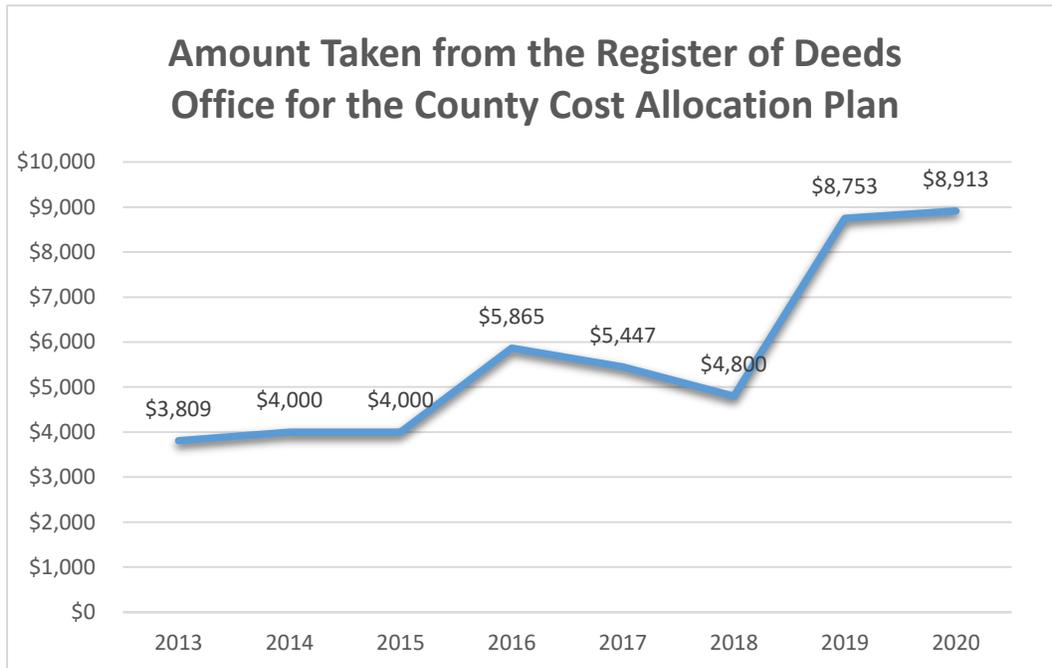
**Copy Sales:** collected on each document - \$1 per page and \$.20 per image (bulk sale to two title companies). This money goes to the County General Fund.

(Continued – Register of Deeds)

*Seven Year Trend of Deposits Made to the Register of Deeds Automation Fund:*

Year	2020	2019	2018	2017	2016	2015	2014
Amount Deposited	\$139,390	\$114,450	\$115,050	\$121,255	\$118,321	\$115,082	\$108,507

**SEVEN YEAR TREND IN MONIES DEDCUTED FROM THE AUTOMATION FUND & SENT TO THE COUNTY COST ALLOCATION PLAN:** Since 2013, \$41,063 has been take from the Automation



Fund for the County Cost Allocation Plan to pay for rent, door security, and overhead at the Courthouse building.

Did you know? That when you look up the Allegan County Register of Deeds Office on *Google Reviews*, you will find that our commitment to customer service earns five stars?

Google reviews

**Jon Lanning**  
31 reviews · 1 photo

★★★★★ a month ago

Very nice people! She even helped me out by mailing something to a township instead of my home.

👍 1

Register of Deeds

5.0 ★★★★★ (1)

County government office in Allegan, Michigan

OVERVIEW

REVIEWS

PHOTOS

Google review summary



(Continued – Register of Deeds)

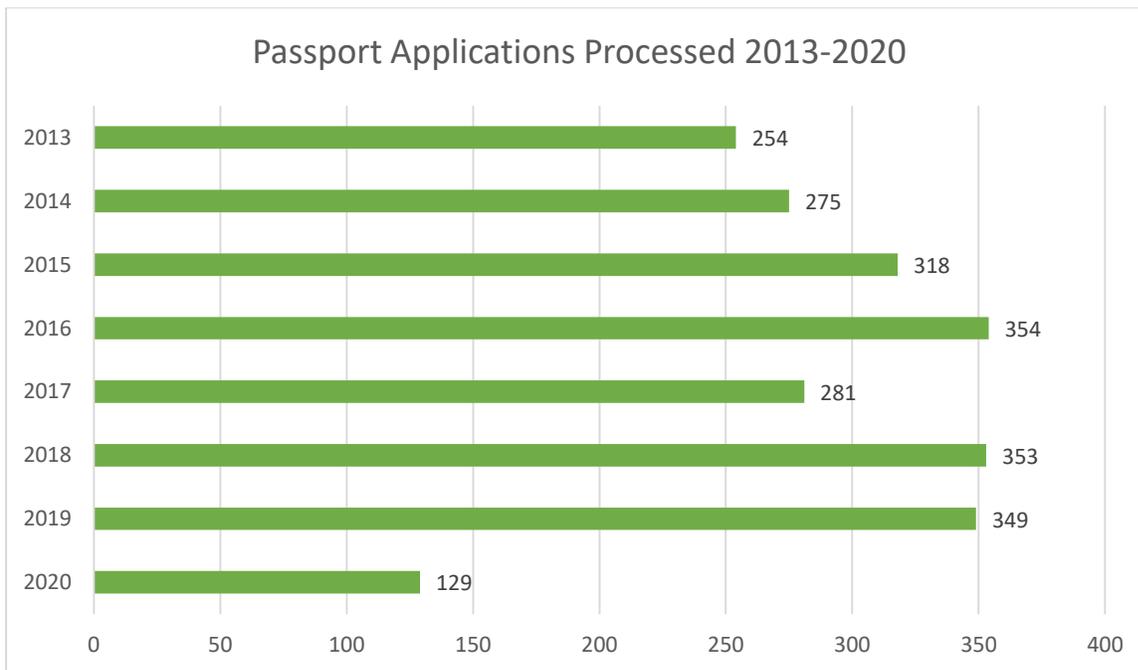
### Passport Services



The Register of Deeds Office helped customers from Allegan County (and beyond) to obtain their United States Passports by accepting 129 Passport Applications in 2020.

The fee a customer pays for obtaining a routine passport through the office is \$145 (which was \$135 until a mandated increase by the federal government that went into effect in April 2018). With the change, \$110 of the total goes to the U.S. Department of State while the \$35 is collected by the Register of Deeds Office and goes into the County General Fund.

Blank application forms are available in the office or online and in addition to the check or money order, a customer will want to bring in a valid photo ID and supporting documents (such as a birth certificate). The Register of Deeds Office is pleased to offer passport size photos taken in the Office for initial applications for \$10. Customers may still bring their own passport size photos if they wish.



COVID 19's effect on travel led to a significant but predictable decline in passport applications – a year over year drop of 63%. The office could not accept applications during April, May and June as the Detroit Passport Agency was shut down during those months. The 129 applications processed in 2020 is the lowest number since the Register of Deeds took over the duty from the Vital Records Office in 2013. The eight year high was hit in 2016 at 354.

(Continued – Register of Deeds)

Revenues to the County General Fund from Passport Applications (at a rate of \$35 per application since April 2<sup>nd</sup> 2018; prior to the increase, the County earned \$25 per application):

Year	Applications	Revenue to the County	Revenue at \$35/\$25*
2020	129	\$4,515	\$4,515
2019	349	\$12,215	\$12,215
2018	353	\$8,925	\$8,925/\$2,450*
2017	281	\$7,025	\$7,025*
2016	354	\$8,850	\$8,850*
2015	318	\$7,950	\$7,950*
2014	275	\$6,875	\$6,875*
2013	254	\$6,350	\$6,350*

In addition to revenues from Passport Applications, the Office took in \$650 from the 65 passport photos taken in 2020. This amount is down from \$1,690 in 2019 and the \$710 from 2018 when the service was initially offered midway through the year.



Travelers who have procrastinated making appointments to obtain driver's licenses or competition, there is no appointment necessary.

These appointments take between 20 and 30 minutes provided the applicant has all of his or her necessary documentation.

With Covid 19 shutting down Secretary of State branch offices for most of the year- the Oct 1, 2020 deadline to obtain a REAL ID compliant Driver's License has been delayed until Oct 1, 2021. After that date, under federal law travelers will need to present a REAL ID compliant identification card to board an airplane within the United States or to enter federal facilities.

The new requirement is one more reason to visit the Register of Deeds Office because a U.S. Passport is considered valid documentation to obtain the REAL ID.

Each deputy in the Office is annually certified as a Passport Acceptance Agent by the United States Department of State. The Office offers Passport services from 8:00 A.M. until 4:30 P.M. Monday through Friday.

Unlike our



(Continued – Register of Deeds)



### Centennial Farms and the Register of Deeds

Along with being the number one agricultural producing county in the state, Allegan County is blessed with many families that have been tilling the land for generations. Allegan County families that have farmed the same land for 100 years or more will want to visit the Register of Deeds Office for a copy of the deed or mortgage documents that show the history of the property & ownership of the working farm. This is the documentation the Historical Society of Michigan will request for the Michigan Centennial Farm Program.

Questions on Centennial Farms? Contact the Historical Society of Michigan at (517) 324-1828 or by email at [farms@hsmichigan.org](mailto:farms@hsmichigan.org).

### Farmland and Open Space Preservation Applications

Under Public Act 116 of 1975, Allegan County Farm owners can enroll their land in the Farmland and Open Space Preservation Program. The trends in applications recorded at the Register of Deeds Office under PA 116 are list by year below:

#### Year/ Number of Applications Recorded

- 2020 / 49
- 2019 / 103
- 2018 / 127\*
- 2017 / 48
- 2016 / 48
- 2015 / 110
- 2014 / 38^
- \*= 7 year high



*Bob Genetski detasseling corn with an Allegan County crew.*

^=7 year low

## Ongoing projects, outstandings Issues, and concerns for the future...

**Reapportionment:** The lines for County Commission Districts will be redrawn in 2021 for the 2022 Election. The process know as “reapportionment” will be based on the new U.S. Census numbers. By law, the County Clerk chairs the first meeting of the Reapportionment Committee until a chair is chosen. He will be diligently researching the reapportionment process.



**The Cost of Elections:** The cost of running elections is growing exponatially. Everything from programming for elections to shipping



ballots is going up. The Clerk’s Office fought back in 2020 by borrowing a van (and a driver) from the County Facilities Department and sending Clerk Genetski (wearing old clothes) to pick up November’s ballots & precinct kits from Tecumseh, Michigan. Whether this is a long-term solution or not, remains to be seen. However, the increasing costs are a big concern.



Two trips to Tecumseh for election supplies save Allegan County taxpayers several thousand dollars.

**Allegan County Veterans’ ID Cards:** After COVID 19 delayed the rollout last year, the Clerk’s Office expects to offer these by April 2021.

**Property Fraud Alerts:** The Office hopes to offer free “property fraud alerts”. This is an online service that will allow Allegan County residents the ability to have their name monitored within the Register of Deeds Office in order to track possible fraudulent activity.



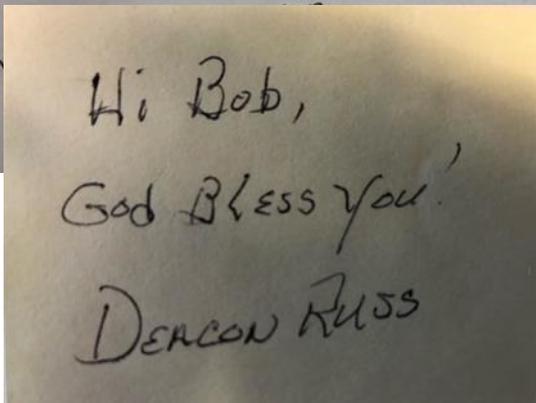
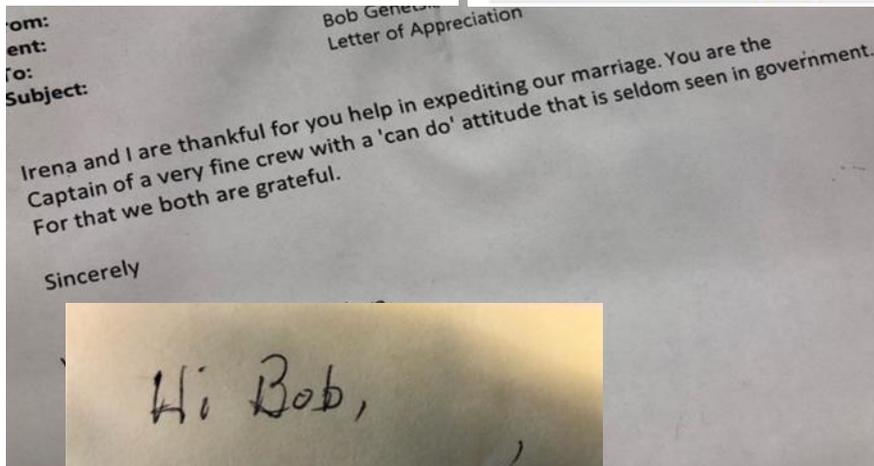
Good morning Taylor,  
Thank you so much! You have been amazing throughout this whole process. I cannot thank you enough! Please let your supervisor(s) know that you are the most helpful, informative and genuinely concerned person I have EVER had the pleasure to work with in ANY Register of Deeds Office nationwide. I do not mean to say other people have not been helpful or kind, but you have gone above and beyond. Being new to Michigan underwriting I know I had WAY too many questions, but you answered, courteously and informatively, every time. I have been in the business since 2001 and have spoken with a lot of people over that time. You truly were among the most professional, and knowledgeable, I have worked with.  
In this crazy time for the entire world with

Thank you so much! By far the best and most efficient help from any Clerk's office I've worked with. And I do these elections a few times a year!

Thank you so much. We may purchase another list as the votes come in to determine who has returned absentee ballots. Are you the appropriate contact for that as well?

-Kaleena

Kaleena Gonzalez  
Regional Business Development Manager  
The Christman Company



S T A T E O F M I C H I G A N

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

**FINANCE - CLAIMS & INTERFUND TRANSFERS**

**WHEREAS**, Administration has compiled the following claims for 3/5/21 and 3/12/21; and

**WHEREAS**, the following claims, which are chargeable against the County, were audited in accordance with Section 46.61 to 46.63, inclusive, M.C.L. 1970 as amended and resolutions of the Board; and

**WHEREAS**, said claims are listed in the 2021 Claims folder of the Commissioners' Record of Claims.

March 5, 2021

	TOTAL AMOUNT CLAIMED	AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund - 1010	180,231.56	180,231.56	
Park/Recreation Fund - 2080	534.62	534.62	
Central Dispatch/E911 Fund - 2110	1,029.68	1,029.68	
Health Department Fund - 2210	2,798.00	2,798.00	
Transportation Grant - 2300	2,363.64	2,363.64	
Register of Deeds Automation Fund - 2560	60.33	60.33	
Indigent Defense - 2600	21,192.60	21,192.60	
Concealed Pistol Licensing Fund - 2635	291.17	291.17	
Local Corrections Officers Training Fund - 2640	591.65	591.65	
Grants - 2790	2,954.67	2,954.67	
Victims Rights Grant - 2791	152.00	152.00	
Sheriff Contracts - 2807	107.52	107.52	
Child Care-Circuit/Family - 2921	4,662.69	4,662.69	
Soldiers Relief Fund - 2930	1,300.00	1,300.00	
Senior Millage - 2950	173,050.72	173,050.72	
Drain Equip Revolving - 6390	144.00	144.00	
Fleet Management - 6612	1,069.77	1,069.77	
Self-Insurance Fund - 6770	358,665.91	358,665.91	
Drain Fund - 8010	4,267.10	4,267.10	
<b>TOTAL AMOUNT OF CLAIMS</b>	<b>\$755,467.63</b>	<b>\$755,467.63</b>	

March 12, 2021

	TOTAL AMOUNT CLAIMED	AMOUNT ALLOWED	AMOUNT DISALLOWED
General Fund – 1010	76,684.07	76,684.07	
Park/Recreation Fund - 2080	5,106.83	5,106.83	
Central Dispatch/E911 Fund - 2110	929.77	929.77	
Friend of the Court Office – 2151	3,000.00	3,000.00	
Health Department Fund – 2210	1,581.91	1,581.91	
Solid Waste – 2211	709.90	709.90	
Transportation Grant – 2300	67,651.08	67,651.08	
Capital Improvement Fund - 2450	11,998.00	11,998.00	
Indigent Defense - 2600	4,694.82	4,694.82	
Local Corrections Officers Training Fund - 2640	2,000.00	2,000.00	
Justice Training Fund—P.A.302, 1982 - 2660	2,500.00	2,500.00	
Law Library Fund – 2690	2,154.78	2,154.78	
Grants - 2790	7,369.00	7,369.00	
Sheriff Contracts – 2807	129.40	129.40	
Child Care-Circuit/Family - 2921	40,722.72	40,722.72	
Soldiers Relief Fund - 2930	6,005.19	6,005.19	
Drain Equip Revolving - 6390	86.78	86.78	
Fleet Management - 6612	106.02	106.02	
Self-Insurance Fund - 6770	23,932.65	23,932.65	
Drain Fund - 8010	14,017.67	14,017.67	
<b>TOTAL AMOUNT OF CLAIMS</b>	<b>\$271,380.59</b>	<b>\$271,380.59</b>	

**THEREFORE BE IT RESOLVED** that the Board of Commissioners adopts the report of claims for 3/5/21, 3/12/21 and interfund transfers.

## S T A T E O F M I C H I G A N

## BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

**BOARD OF COMMISSIONERS—911 FEE DIVERSION**

**WHEREAS**, the Federal Communications Commission ("FCC") is accepting comments in its plan to eliminate the diversion of 911 fees for items it deems not directly related to the 911 process; and

**WHEREAS**, Michigan Public Act 32 of 1986 provides for each local 911 district to utilize 911 fees within certain limitations that are determined by the State and regularly audited for compliance with the limitations; and

**WHEREAS**, under Michigan law, allowable uses include radio systems, paging systems, pagers, automatic vehicle location (AVL) systems, and mobile data computers (MDCs); and

**WHEREAS**, FCC proposed rules impinge upon Michigan's ability to determine the definition of allowable costs for 911 fees; and

**WHEREAS**, FCC proposed rules would eliminate the utilization of funds for radio infrastructure, mobile radios, portable radios, pagers, AVL systems and MDCs, critical to dispatching the 911 response; and

**WHEREAS**, the Allegan County Board of Commissioners (Board) believes a broader use and interpretation of the phrase "directly related to the 911 process" should be adopted to include the entire 911 dispatching communication process; and

**WHEREAS**, the Board believes that local decision making and local control regarding the utilization of 911 fees is paramount.

**THEREFORE BE IT RESOLVED**, that the Board supports a broader use and interpretation of the phrase "directly related to the 911 process" and support local decision making and local control regarding the utilization of 911 fees.



ALLEGAN COUNTY  
REQUEST FOR ACTION FORM

Completed RFA form must be attached to a work order request through the Track-It System. If you have any questions regarding this process, please contact Administration @ ext. 2633.

RFA#: 199-476

Date: 2/25/2021

Request Type Routine Items Select a Request Type to reveal and complete required form.  
Department Requesting Central Dispatch  
Submitted By Jeremy Ludwig  
Contact Information jludwig@allegancounty.org

Description

I am requesting the Allegan County Board of Commissioners support a state-wide effort for filing comments on FCC 911 fee diversion legislation, that supports a broader use and interpretation of the phrase “directly related to the 911 process” and support local decision making and local control regarding the utilization of 911 fees. The FCC proposed rules impinge upon Michigan’s ability to determine the definition of allowable costs for 911 fees, and would eliminate the utilization of funds for radio infrastructure, mobile radios, portable radios, pagers, AVL systems, and MDCs, critical to dispatching the 911 response. Attached is a resolution template created by Oakland County that has been shared with 911 agencies across the state. This resolution was sent out so that it could be adopted by both public safety organizations, authority boards, and elected bodies such as county commissions, city councils, township boards, village councils, etc. I am requesting Allegan County adopt this resolution.

**FCC FACT SHEET\***

**911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008**

Notice of Proposed Rulemaking - PS Docket Nos. 20-291 and 09-14

**Background:**

Each year people in urgent need of assistance place over 200 million emergency calls to 911 call centers in the United States. Funding for the 911 system is provided in part by dedicated 911 fees established by each state and territory that appear as charges on customer bills for wireless, wireline, and other communications services. Despite the critical importance of 911 service, the Commission's annual reports to Congress on 911 fees show that some states divert a portion of the fees collected for 911 to other purposes.

On December 27, 2020, new federal legislation (the Don't Break Up the T-Band Act of 2020) was signed into law that requires the Commission to take action to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. In particular, section 902 of the new legislation directs the Commission to issue final rules within 180 days defining what uses of 911 fees by states and taxing jurisdictions constitute 911 fee diversion. The Notice of Proposed Rulemaking seeks comment on proposed rules to implement these provisions.

**What the Notice of Proposed Rulemaking Would Do:**

- Propose rules that would define the types of expenditures of 911 fees by states and taxing jurisdictions that are acceptable under the criteria established in section 902 and the types of expenditures that constitute 911 fee diversion.
- Propose rules that would allow states and taxing jurisdictions to petition the Commission for a determination that expenditures of 911 fees not previously designated as acceptable by the Commission should be treated as acceptable under section 902.
- Propose a rule providing that any state or taxing jurisdiction identified as a 911 fee diverter in the Commission's annual 911 fee report to Congress would be ineligible to serve on any committee, panel, or council established to advise the First Responder Network Authority (FirstNet) or any advisory committee established by the Commission.
- Propose a rule providing that if a state or taxing jurisdiction receives a federal 911 grant, as a condition of the grant it must provide information that the Commission requires in order to prepare the annual 911 fee report to Congress.

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\* This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in PS Docket Nos. 20-291 and 09-14, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
911 Fee Diversion
New and Emerging Technologies 911
Improvement Act of 2008
PS Docket No. 20-291
PS Docket No. 09-14

NOTICE OF PROPOSED RULEMAKING\*

Adopted: []

Released: []

Comment Date: (20 days after date of publication in the Federal Register)
Reply Comment Date: (30 days after date of publication in the Federal Register)

TABLE OF CONTENTS

Heading Paragraph #
I. INTRODUCTION..... 1
II. BACKGROUND..... 2
III. DISCUSSION ..... 10
A. Definitions and Applicability..... 11
B. Designation of Obligations or Expenditures Acceptable for Purposes of Section 902..... 21
C. Petition for Determination ..... 30
D. Other Section 902 Provisions..... 32
IV. PROCEDURAL MATTERS..... 34
V. ORDERING CLAUSES..... 40
Appendix A – Proposed Rules
Appendix B – Initial Regulatory Flexibility Analysis

I. INTRODUCTION

1. On December 27, 2020, the President signed the Don't Break Up the T-Band Act of 2020 as part of the Consolidated Appropriations Act, 2021.<sup>1</sup> Section 902 of the new legislation requires the

\* This document has been circulated for tentative consideration by the Commission at its February open meeting. The issues referenced in this document and the Commission's ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Acting Chairwoman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR §§ 1.1200(a), 1.1203.

Commission to take action to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. In particular, it directs the Commission to issue final rules, not later than 180 days after the date of enactment of section 902, designating the uses of 911 fees by states and taxing jurisdictions that constitute 911 fee diversion for purposes of 47 U.S.C. § 615a-1, as amended by section 902.<sup>2</sup> In this Notice of Proposed Rulemaking, we propose measures to implement section 902. We seek comment on these measures, which are designed to identify those uses of 911 fees by states and other jurisdictions that support the provision of 911 services.<sup>3</sup>

## II. BACKGROUND

2. Congress has had a longstanding concern about the practice by some states and local jurisdictions of diverting 911 fees for non-911 purposes. In the ENHANCE 911 Act of 2004, Congress required states and local jurisdictions receiving federal 911 grants to certify that they were not diverting 911 funds.<sup>4</sup> In the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), Congress enacted additional measures to limit 911 fee diversion, codified in 47 U.S.C. § 615a-1 (section 615a-1).<sup>5</sup> Specifically, section 615a-1(f)(1) provided that nothing in the NET 911 Act, the Communications Act of 1934,<sup>6</sup> or any Commission regulation or order “shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation . . . for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge.”<sup>7</sup>

3. The NET 911 Act also required the Commission to begin reporting annually on the status in each state of the collection and distribution of fees for the support or implementation of 911 or E911 services, including findings on the amount of revenues obligated or expended by each state “for any purpose other than the purpose for which any such fees or charges are specified.”<sup>8</sup> Pursuant to this provision, the Commission has reported annually to Congress on 911 fee diversion every year since

(Continued from previous page) \_\_\_\_\_

<sup>1</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don’t Break Up the T-Band Act of 2020 (section 902).

<sup>2</sup> Section 902(c)(1)(C).

<sup>3</sup> Comments on this Notice of Proposed Rulemaking are due within 20 days after publication of a summary of the document in the Federal Register, and reply comments are due within 30 days after such publication in the Federal Register. The Commission considers this time period necessary given the 180-day statutory deadline for its rulemaking and given the scope of the issues raised.

<sup>4</sup> Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004, Pub. L. No. 108-494, 118 Stat. 3986 (relevant grant provisions codified as amended at 47 U.S.C. § 942) (*ENHANCE 911 Act*). Congress provided another round of 911 grant funding, with similar non-diversion requirements, in the NG911 Act. Next Generation 9-1-1 Advancement Act of 2012 (Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, Title VI, Subtitle E), 126 Stat. 237 (relevant grant provisions codified at 47 U.S.C. § 942) (*NG911 Act*).

<sup>5</sup> New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (*NET 911 Act*). The NET 911 Act enacted 47 U.S.C. § 615a-1 and also amended 47 U.S.C. §§ 222, 615a, 615b, and 942. See 47 U.S.C. § 615a-1 Editorial Notes.

<sup>6</sup> 47 U.S.C. § 151 *et seq.*

<sup>7</sup> 47 U.S.C. § 615a-1(f)(1). Under the NET 911 Act, the Commission’s annual 911 fee report covers states, as well as U.S. territories and the District of Columbia. See 47 U.S.C. § 615b(2).

<sup>8</sup> 47 U.S.C. § 615a-1(f)(2).

2009.<sup>9</sup> All 12 of the annual reports issued to date have identified some states that have diverted 911 fees to other uses.<sup>10</sup>

4. In October 2020, the Commission released a Notice of Inquiry seeking comment on the effects of fee diversion and the most effective ways to dissuade states and jurisdictions from continuing or instituting the diversion of 911/E911 fees.<sup>11</sup> Noting that publicly identifying diverting states in the Commission's annual reports has helped discourage the practice but had not eliminated fee diversion, the Commission sought comment on whether it could take other steps to discourage fee diversion, such as conditioning state and local eligibility for FCC licenses, programs, or other benefits on the absence of fee diversion.<sup>12</sup> The Commission received eight comments and seven reply comments in response to the Notice of Inquiry.<sup>13</sup>

5. The newly enacted section 902 requires the Commission to take additional action with respect to 911 fee diversion. Specifically, section 902(c)(1)(C) adds a new paragraph (3)(A) to section 615a-1(f) that directs the Commission to adopt rules “designating purposes and functions for which the obligation or expenditure of 9-1-1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable” for purposes of section 902 and the Commission's rules.<sup>14</sup> The newly added section 615a-1(f)(3)(B) states that these purposes and functions shall be limited to “the support and implementation of 9-1-1 services” provided by or in the state or taxing jurisdiction imposing the fee or charge, and “operational expenses of public safety answering points” within such state or taxing jurisdiction.<sup>15</sup> The new section also states that, in designating such purposes and functions, the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as the intended purposes and functions for their 911 fees or charges, and “determine whether such purposes and functions directly support providing 9-1-1 services.”<sup>16</sup>

6. Section 902 also amends section 615a-1(f)(1) to provide that the rules adopted by the Commission for these purposes will apply to states and taxing jurisdictions that impose 911 fees or

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<sup>9</sup> The Chairman of the Federal Communications Commission submits the annual report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, as mandated by the NET 911 Act and as prepared by the staff in the Public Safety and Homeland Security Bureau. See 47 U.S.C. § 155(a) (stating, inter alia, that “[i]t shall be [the Chairman's] duty ... to represent the Commission in all matters relating to legislation and legislative reports”). These annual reports can be viewed at <https://www.fcc.gov/general/911-fee-reports>.

<sup>10</sup> The Twelfth Report found that five states diverted more than \$200 million in 911 fees or surcharges for non-911 purposes in 2019, or 6.6% of all fees collected. Federal Communications Commission (FCC), Twelfth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges at 49-50, para. 27, Table 16 (2020) (Twelfth Report), <https://www.fcc.gov/files/12thannual911feereport2020pdf>. Following release of the Twelfth Report, the Bureau sought “comment on the Twelfth Report and how it should impact the Commission's ongoing proceeding to end the practice of 911 fee diversion by states and localities.” *Public Safety and Homeland Security Bureau Seeks Comment on Twelfth Annual Report to Congress on 911 Fee Diversion in Light of Ongoing Proceeding to Deter Such Practices*, PS Docket Nos. 20-291 and 09-14, Public Notice, 35 FCC Rcd 14144 (PSSB 2020), <https://www.fcc.gov/document/pshsb-seeks-comment-twelfth-annual-report-911-and-e911-fees>.

<sup>11</sup> *911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008*, PS Docket Nos. 20-291 and 09-14, Notice of Inquiry, 35 FCC Rcd 11010, 11010, para. 1 (2020) (*Fee Diversion NOI*).

<sup>12</sup> *Fee Diversion NOI*, 35 FCC Rcd at 11011, 11016, paras. 5, 16.

<sup>13</sup> These filings can be viewed in the FCC's electronic comment filing system (ECFS) at <https://www.fcc.gov/ecfs/>, under PS Docket Nos. 20-291 and 09-14.

<sup>14</sup> 47 U.S.C. § 615a-1(f)(3)(A) (as amended).

<sup>15</sup> 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C).

<sup>16</sup> 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C).

charges. Whereas the prior version of section 615a-1(f)(1) referred to fees or charges “obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge,”<sup>17</sup> the amended version reads as follows:

Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, *consistent with the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.*<sup>18</sup>

7. In addition, section 902(c) establishes a process for states and taxing jurisdictions to seek a determination that a proposed use of 911 fees should be treated as having such an acceptable purpose or function even if it is for a purpose or function that has not been designated as such in the Commission’s rules.<sup>19</sup> Specifically, newly added section 615a-1(f)(5) provides that a state or taxing jurisdiction may submit to the Commission a petition for a determination that an obligation or expenditure of a 911 fee or charge “for a purpose or function other than a purpose or function designated under [section 615a-1(f)(3)(A)] should be treated as such a purpose or function,” i.e., as acceptable for purposes of this provision and the Commission’s rules.<sup>20</sup> The new section 615a-1(f)(5) provides that the Commission shall grant the petition if the state or taxing jurisdiction provides sufficient documentation that the purpose or function “(i) supports public safety answering point functions or operations,” or “(ii) has a direct impact on the ability of a public safety answering point to . . . (I) receive or respond to 9-1-1 calls; or (II) dispatch emergency responders.”<sup>21</sup>

8. Section 902(d) requires the Commission to create an “interagency strike force” to study “how the Federal Government can most expeditiously end diversion” by states and taxing jurisdictions and to report to Congress on its findings within 270 days of the statute’s enactment.<sup>22</sup> It further provides that if the Commission obtains evidence that “suggests the diversion by a State or taxing jurisdiction of 9-1-1 fees or charges,” the Commission shall submit such information to the strike force.<sup>23</sup> In addition, Section 902(c)(1)(C) provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942) after the date of the enactment of the new legislation, “such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the [annual report

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<sup>17</sup> 47 U.S.C. § 615a-1(f)(1) (prior version).

<sup>18</sup> 47 U.S.C. § 615a-1(f)(1) (as amended) (emphasis added); Section 902(c)(1)(A).

<sup>19</sup> 47 U.S.C. § 615a-1(f)(5) (as amended); Section 902(c)(1)(C).

<sup>20</sup> *Id.*

<sup>21</sup> 47 U.S.C. § 615a-1(f)(5) (as amended); Section 902(c)(1)(C).

<sup>22</sup> Section 902(d)(3).

<sup>23</sup> Section 902(d)(1). In addition, Section 902(d)(2) provides that, beginning with the first annual fee report “that is required to be submitted after the date that is 1 year after the date of the enactment of this Act,” the Commission shall include in each report “all evidence that suggests the diversion by a State or taxing jurisdiction of 9-1-1 fees or charges, including any information regarding the impact of any underfunding of 9-1-1 services in the State or taxing jurisdiction.”

to Congress on 911 fees].”<sup>24</sup> Finally, section 902(d)(4) prohibits any state or taxing jurisdiction identified as a fee diverter in the Commission’s annual report from participating or sending a representative to serve on any committee, panel, or council established to advise the First Responder Network Authority (FirstNet) under 47 U.S.C. § 1425(a) or any advisory committee established by the Commission.<sup>25</sup>

9. Section 902 does not impose any requirement on states or taxing jurisdictions to impose any fee in connection with the provision of 911 service. As revised, the proviso to Section 615a-1 states that nothing in the Act or the Commission’s rules “shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services” specifically designated by the taxing jurisdiction “for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, consistent with the purposes and functions designated in [the Commission’s forthcoming rules] as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.”<sup>26</sup>

### III. DISCUSSION

10. With this Notice of Proposed Rulemaking, we propose rules to implement the provisions of section 902 that require Commission action. Specifically, we propose to amend part 9 of our rules to establish a new subpart I that would address 911 fees and fee diversion in accordance with and for the purposes of the statute. Accordingly, we propose to (1) adopt rules that clarify what does and does not constitute the kind of diversion of 911 fees that has concerned Congress (and the Commission), (2) establish a declaratory ruling process for providing further guidance to states and taxing jurisdictions on fee diversion issues, and (3) codify the specific restrictions that section 902 imposes on states and taxing jurisdictions that engage in diversion as defined by our rules (i.e., a reporting requirement upon which eligibility for NTIA grants are to be conditioned, and the exclusion from eligibility to participate on certain committees, panels, councils, and Commission advisory commissions). We tentatively conclude that these proposed changes to part 9 would further Congress’s stated objectives in section 902 in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunications services or to state and taxing jurisdictions. We seek comment on this tentative conclusion and on the proposed changes we set forth below.

#### A. Definitions and Applicability

11. As a preliminary matter, we note that section 902 defines certain terms relating to 911 fees and fee diversion. To promote consistency, we propose to codify these definitions in our rules with certain modifications, as described below. We seek comment on these proposed definitions.

12. *911 fee or charge.* Section 902 defines “9-1-1 fee or charge” as “a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State or taxing jurisdiction for the support or implementation of 9-1-1 services.”<sup>27</sup> We propose to codify this definition in our rules. However, we note that the statutory definition in section 902 does not address services that may be subject to 911 fees other than Commercial Mobile Radio Services (CMRS) and IP-enabled voice services. The reason for this omission is unclear. For example, virtually all states impose 911 fees on wireline telephone services and have provided information on such fees for inclusion in the Commission’s annual fee reports. In addition, as 911 expands beyond voice to include text and other non-voice applications, states could choose to extend 911 fees to such services in the future.<sup>28</sup>

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<sup>24</sup> 47 U.S.C. § 615a-1(f)(4) (as amended); Section 902(c)(1)(C).

<sup>25</sup> Section 902(d)(4).

<sup>26</sup> 47 U.S.C. § 615a-1(f)(1) (as amended); Section 902(c)(1)(A).

<sup>27</sup> 47 U.S.C. § 615a-1(f)(3)(d) (as amended); Section 902(c)(1)(C), (f)(1).

<sup>28</sup> For example, the Commission has extended 911 obligations to providers of text messaging services. *See Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket Nos. 10-255

13. To promote regulatory parity and avoid gaps that could inadvertently frustrate the rapid deployment of effective 911 services, including advanced Next Generation 911 (NG911) services, we propose to define “911 fee or charge” in our rules to include fees or charges applicable to “other emergency communications services” as defined in section 201(b) of the NET 911 Act. Under the NET 911 Act, the term “other emergency communications service” means “the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9-1-1 and enhanced 9-1-1 service.”<sup>29</sup> The proposed modification will make clear that the rules in subpart I extend to all communications services regulated by the Commission that provide emergency communications, including wireline services, and not just to commercial mobile services and IP-enabled voice services.

14. We tentatively conclude that adoption of this proposed expanded definition of “911 fee or charge” is reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities under section 902 and other federal 911-related statutes that, taken together, establish an overarching federal interest in ensuring the effectiveness of the 911 system.<sup>30</sup> The Commission’s general jurisdictional grant includes the responsibility to set up and maintain a comprehensive and effective 911 system, encompassing a variety of communication services in addition to CMRS and IP-enabled voice services. Section 251(e)(3) of the Communications Act of 1934, which directs the Commission to designate 911 as the universal emergency telephone number, states that the designation of 911 “shall apply to both wireline and wireless telephone service,” which evidences Congress’s intent to grant the Commission broad authority over different types of communications services in the 911 context.<sup>31</sup> Similarly, RAY BAUM’S Act directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls “regardless of the technological platform used.”<sup>32</sup> In addition, section 615a-1(e)(2) provides that the Commission “shall enforce this section as if this section was a part of the Communications Act of 1934 [47 U.S.C. 151 et seq.]” and that “[f]or purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.”<sup>33</sup>

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and 11-153, Report and Order, 28 FCC Rcd 7556 (2013) (*Bounce-Back Report and Order*) (requiring covered text providers to provide consumers attempting to send a text to 911 with an automatic bounce-back message when the service is unavailable); *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 9846 (2014) (*Text-to-911 Second Report and Order*) (requiring covered text providers to implement text-to-911 service no later than June 30, 2015 or six months from the date of a PSAP’s request, whichever is later). Further, in RAY BAUM’S Act, which directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls, Congress specifically defined the term “9-1-1 call” to include a voice call “or a message that is sent by other means of communication.” See Section 506 of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (*RAY BAUM’S Act*), Pub. L. No. 115-141, 132 Stat. 348, 1095 (codified at 47 U.S.C. § 615 note).

<sup>29</sup> 47 U.S.C. § 615b(8).

<sup>30</sup> See, e.g., *Comcast Corp. v. FCC*, 600 F.3d 642, 646-47 (D.C. Cir. 2010).

<sup>31</sup> 47 U.S.C. § 251(e)(3). Section 251(e)(3) was added as part of the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (1999) (911 Act), which established 911 as the national emergency number and required the Commission to provide for appropriate transition periods for areas in which 911 was not in use. Congress broadly stated the purpose of the 911 Act as “to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs.” 911 Act § 2(b), codified at 47 U.S.C. § 615 note.

<sup>32</sup> See *RAY BAUM’S Act*.

<sup>33</sup> 47 U.S.C. § 615a-1(e)(2).

15. Based on the foregoing, we tentatively conclude that including “other emergency communications services” within the scope of the definition of 911 fees we propose is also reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities for ensuring that the 911 system, including 911, E911, and NG911 calls and texts from any type of service, is available, that these 911 services function effectively, and that 911 fee diversion by states and other jurisdictions does not detract from these critical, statutorily recognized purposes.<sup>34</sup> Diverting fees collected for 911 service of any type, whether it be wireline, wireless, IP based, or text, undermines the purpose of these federal statutes by depriving the 911 system of the funds it needs to function effectively and to modernize 911 operations.<sup>35</sup> We seek comment on this tentative conclusion and on the extent to which our proposed rules would strengthen the effectiveness of a nationwide 911 service.

16. In addition, we seek comment on extending the definition of “911 fee or charge” to include fees or charges designated for the support of “public safety,” “emergency services,” or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services.<sup>36</sup> This would be consistent with the approach taken in the agency’s annual fee reports, which found that the mere labelling of a fee is not dispositive and that one must examine the underlying purpose of the fee to determine whether it is (or includes) a 911 fee within the meaning of the NET 911

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<sup>34</sup> See, e.g., 47 U.S.C. § 151 *et seq.*; 47 U.S.C. § 601; *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996); 911 Act § 3(a), and as codified at 47 U.S.C. §§ 222, 251, 615, 615a, 615b; 47 CFR § 64.3000 *et seq.*, renumbered as 47 CFR § 9.4 *et seq.*; 47 CFR § 20.18, renumbered as 47 CFR § 9.10; 47 CFR § 9.1 *et seq.*, renumbered as 47 CFR § 9.11 *et seq.*; *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 and 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005); *Nuvio Corp. v. FCC*, 473 F.3d 302, 312 (D.C. Cir. 2007) (Kavanaugh, J., concurring); NET 911 Act, as codified at §§ 222, 615a, 615a-1, 615b, 942; CVAA § 106, as codified in part at 47 U.S.C. § 615c(a), (g); *Bounce-Back Report and Order; Text-to-911 Second Report and Order; NG911 Act* §§ 6503-6509, and as codified at 47 U.S.C. §§ 942, 1471-1473; Kari’s Law Act of 2017, Pub. L. No. 115-127, 132 Stat. 326 (2018), codified at 47 U.S.C. § 623; *RAY BAUM’S Act*, codified at 47 U.S.C. § 615 note; *Implementing Kari’s Law and Section 506 of RAY BAUM’S Act; 911 Access, Routing, and Location in Enterprise Communications Systems; Amending the Definition of Interconnected VoIP Service in Section 9.3 of the Commission’s Rules*, PS Docket Nos. 18-261 and 17-239, GN Docket No. 11-117, Report and Order, 34 FCC Rcd 6607 (2019), *corrected by* Erratum, 34 FCC Rcd 11073 (PSHSB Dec. 2, 2019).

<sup>35</sup> The 2016 report of the Task Force on Optimal PSAP Architecture (TFOPA) recounted how fee diversion practices have “delayed plans in several states to meet the deployment schedule for the transition to an NG9-1-1 system.” See TFOPA Report at 153-154; *see generally* Legal and Regulatory Framework for Next Generation 911 Services, Report and Recommendations, at Sec. 4.1.4 (2013) (Report to Congress Pursuant to the Next Generation 911 Advancement Act of 2012 (Pub. L. No. 112-96 (2012))), [https://www.911.gov/pdf/FCC\\_Report\\_Legal\\_Regulatory\\_Framework\\_NG911\\_Services\\_2013.pdf](https://www.911.gov/pdf/FCC_Report_Legal_Regulatory_Framework_NG911_Services_2013.pdf). Other commenters have noted instances of fee diversion resulting in the delay of 911 improvements. See New Jersey Wireless Association Reply Comments, PS Docket No. 09-14, at 2 (rec. Feb. 12, 2019) (noting that instead of upgrading to NG911 technology, New Jersey is maintaining a 911 selective router system that is “past its useful life and is now costing more to maintain from previous years, due to its obsolescence”); Letter from Matthew Grogan, 1<sup>st</sup> Vice President, Nevada APCO at 1 (Feb. 15, 2019) (noting that Nevada 911 funds have been used to purchase police body cameras at a time when “several counties and jurisdictions . . . are still not equipped with enhanced 9-1-1 services”), [https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=36516&fileDownloadName=SB%2025\\_Testimony%20in%20Opposition\\_Matthew%20Grogan%20Nevada%20Fee%20Diverison.pdf](https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=36516&fileDownloadName=SB%2025_Testimony%20in%20Opposition_Matthew%20Grogan%20Nevada%20Fee%20Diverison.pdf).

<sup>36</sup> We also propose a safe harbor in the rules providing that the obligation or expenditure of such fees or charges will not constitute diversion so long as the state or taxing jurisdiction: (1) specifies the amount or percentage of such fees or charges that is dedicated to 911 services; (2) ensures that the 911 portion of such fees or charges is segregated and not commingled with any other funds; and (3) obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section. See *infra* para. 28.

Act.<sup>37</sup> We seek comment on these conclusions.

17. We propose that for purposes of implementing section 902, our definition of “911 fee or charge” should similarly extend to fees or charges that are expressly identified by the state or taxing jurisdiction as supporting 911, even if the fee is not labelled as a 911 fee. We tentatively conclude that this is consistent with the purpose of section 902 with respect to diversion of 911 fees and charges.<sup>38</sup> We seek comment on this proposal. Does the proposed definition of 911 fees or charges capture the universe of 911 fees or charges that can be diverted? Is the definition overinclusive or underinclusive? Are there other modifications to the definition that would help to prevent 911 fee diversion?

18. *Diversion.* Section 902(f) defines “diversion” as follows:

The term “diversion” means, with respect to a 9-1-1 fee or charge, the obligation or expenditure of such fee or charge for a purpose or function other than the purposes and functions designated in the final rules issued under paragraph (3) of section 6(f) of the Wireless Communications and Public Safety Act of 1999, as added by this Act, as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.<sup>39</sup>

We propose to codify this definition, with minor changes to streamline it. Specifically, we propose to define diversion as “[t]he obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to [the applicable rule section in subpart I].”<sup>40</sup> In addition, we propose to clarify that diversion also includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated by the Commission. We believe this provision will clarify that states and taxing jurisdictions are also responsible for diversion of 911 fees by political subdivisions, such as counties, that may receive 911 fees. We seek comment on these proposals.

19. *State or taxing jurisdiction.* Section 902 defines a state or taxing jurisdiction as “a State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).”<sup>41</sup> We propose to codify this definition in our rules. We note that the existing language in section 615a-1 directs the Commission to submit an annual report to Congress on the use of 911 fees by “each State or political subdivision thereof,” and section 902 does not revise this language. We also note that section 902 does not alter the definition of “State” in the existing legislation. Under section 615b, the term “State” means “any of the several States, the District of Columbia, or any territory or possession of the United States.”<sup>42</sup> Accordingly, provisions in subpart I that apply to any “State or taxing jurisdiction” would apply to the District of Columbia and any United States territory or possession as well. To clarify this and to assist users of the regulations, we propose to add the definition of State to subpart I.

20. Regarding the scope of proposed subpart I, we propose that the rules apply to states or taxing jurisdictions that collect 911 fees or charges (as defined in that subpart) from commercial mobile

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<sup>37</sup> *E.g.*, Twelfth Report at 51-52, para. 31 (“We do not agree that a fee or charge must be exclusively designated for 911 or E911 purposes in order to constitute a fee or charge ‘for the support or implementation of 9-1-1 or enhanced 9-1-1 services’ under section 6(f)(1) of the NET 911 Act.”); *see also* Eleventh Report at 43, para. 34.

<sup>38</sup> *See, e.g.*, Section 902(c), codified at 47 U.S.C. § 615a-1(f)(3)(A).

<sup>39</sup> Section 902(f)(4).

<sup>40</sup> As proposed for the new Subpart I, “[a]cceptable purposes and functions for the obligation or expenditure of 911 fees or charges are limited to: (1) Support and implementation of 911 services provided by or in the State or taxing jurisdiction imposing the fee or charge; and (2) Operational expenses of public safety answering points within such State or taxing jurisdiction.”

<sup>41</sup> 47 U.S.C. § 615a-1(f)(3)(d) (as amended); Section 902(c)(1)(C), (f)(5).

<sup>42</sup> 47 U.S.C. § 615b(2).

services, IP-enabled voice services, and other emergency communications services. And as the proposed definitions make clear, such fees or charges would include fees or charges designated for the support of public safety, emergency services, or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services. We seek comment on these proposals.

**B. Designation of Obligations or Expenditures Acceptable for Purposes of Section 902**

21. Section 902 requires the Commission to issue rules “designating purposes and functions for which the obligation or expenditure of 9-1-1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable” for purposes of the statute.<sup>43</sup> In addition, section 902 provides that the purposes and functions designated as acceptable for such purposes “shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction.”<sup>44</sup> Section 902 also provides that the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as their intended purposes and “determine whether such purposes and functions directly support providing 9-1-1 services.”<sup>45</sup> Moreover, Section 902 provides states and taxing authorities with the right to file a petition with the Commission for a determination that an obligation or expenditure of a 911 fee or charge that is imposed for a purpose or function other than those designated as acceptable for purposes of the statute in the Commission rules should nevertheless be treated as having an acceptable purpose or function for such purposes.<sup>46</sup>

22. We propose to codify the statutory standard for acceptable purposes and functions for the obligation or expenditure of 911 fees or charges by providing that acceptable purposes and functions for purposes of the statute are limited to (1) support and implementation of 911 services provided by or in the state or taxing jurisdiction imposing the fee or charge, and (2) operational expenses of PSAPs within such state or taxing jurisdiction. This proposed language tracks the language in section 902.<sup>47</sup> In addition, we propose to specify in the rules that examples of such acceptable purposes and functions include, but are not limited to, the following, provided that the state or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:

- (1) PSAP operating costs, including lease, purchase, maintenance, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility;
- (2) PSAP personnel costs, including telecommunicators’ salaries and training;
- (3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;
- (4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations; and

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<sup>43</sup> 47 U.S.C. § 615a-1(f)(3)(A).

<sup>44</sup> 47 U.S.C. § 615a-1(f)(3)(B).

<sup>45</sup> 47 U.S.C. § 615a-1(f)(3)(B).

<sup>46</sup> 47 U.S.C. § 615a-1(f)(5). Such a petition must be granted if the Commission finds that the State or taxing jurisdiction has provided sufficient documentation to demonstrate that the purpose or function in question supports PSAP functions or operations, or that the purpose or function has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. *Id.*

<sup>47</sup> See 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C) (stating that “[t]he purposes and functions designated [by the Commission] shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction”).

- (5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.

23. We believe these purposes and functions are consistent with the general standard for designating acceptable uses of 911 fees and charges set out in section 902. They also are consistent with the Commission's past analysis of 911 fee diversion in its annual fee reports, and, as required under section 902, they reflect the Commission's consideration of the purposes and functions that states have specified for their 911 fees and charges. In particular, the Commission has stated in its annual fee reports that the requisite nexus to 911 includes expenditures that (1) support PSAP functions or operations, (2) have a reasonable nexus to PSAPs' ability to receive 911 calls and/or dispatch emergency responders, or (3) relate to communications infrastructure that connects PSAPs (or otherwise ensures the reliable reception and processing of emergency calls and their dispatch to first responders).<sup>48</sup> In addition, the Commission has stated that expenses associated with integrating public safety dispatch and 911 systems (e.g., purchase of CAD hardware and software to support integrated 911 and dispatch operations) may be 911 related, provided the state or other jurisdiction can document a connection to 911.<sup>49</sup> We seek comment on our proposed inclusion of these examples of acceptable purposes and functions and any additional examples that should be specified in the rules.

24. We also seek comment on specifying certain examples of purposes and functions that are *not* acceptable for the obligation or expenditure of 911 fees or charges for purposes of the statute. These would include, but are not limited to:

- (1) Transfer of 911 fees into a state or other jurisdiction's general fund or other fund for non-911 purposes;
- (2) Equipment or infrastructure for constructing or expanding non-public safety communications networks (e.g., commercial cellular networks); and
- (3) Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities, including public safety radio equipment and infrastructure, that does not have a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders.

25. Identifying these examples as unacceptable expenditures for purposes of the statute is consistent with the manner in which such expenditures were analyzed in our annual 911 fee reports. For example, the fee reports have repeatedly found that transferring 911 fees to the state's general fund or using 911 fees for the expansion of commercial cellular networks constitutes fee diversion.<sup>50</sup> The fee reports also have found that expenditures to support public safety radio systems, including maintenance, upgrades, and new system acquisitions, are not 911 related.<sup>51</sup> The Eleventh Report explained that the purchase or upgrade of public safety radio equipment was not considered to be 911 related because "radio networks used by first responders are technically and operationally distinct from the 911 call-handling

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<sup>48</sup> See Tenth Report at 49, para. 40. Under this analysis, funding for 911 dispatcher salaries and training would have a sufficient nexus to 911, but equipment and infrastructure for law enforcement, firefighters, and other first responders generally would not. See also Eleventh Report at 74, para. 59 ("CTIA supports the Commission in requiring documentation sufficient to demonstrate that the expenditures (1) support PSAP functions or operations, (2) have a reasonable nexus to PSAPs' ability to receive 9-1-1 calls and/or dispatch emergency responders, or (3) relate to communications infrastructure that connects PSAPs.").

<sup>49</sup> See Twelfth Report at 48-49, para. 26; Eleventh Report at 39, para. 26; Tenth Report at 42, para. 26.

<sup>50</sup> E.g., Twelfth Report at 52-54, paras. 32, 35, 37; Eleventh Report at 40, 42-43, paras. 28, 32, 35; Tenth Report at 43-44, 46-47, paras. 30, 32, 35, 37.

<sup>51</sup> See Twelfth Report at 48-49, para. 26; Eleventh Report at 39, para. 26; Tenth Report at 42, para. 26.

system.”<sup>52</sup> We seek comment on whether we should reexamine any of these prior findings in light of the impact of the coronavirus pandemic on public safety and emergency communications services, if any.

26. Our proposed designation of acceptable purposes and functions for purposes of the statute is also consistent with the legislative history of the NET 911 Act. In its report on H.R. 3403 (the bill that was enacted as the NET 911 Act), the House Committee on Energy and Commerce noted that several states were known to be using 911 fees for “purposes other than 911 or emergency communications services.”<sup>53</sup> The Report also noted that under section 6(f) of the proposed legislation, “[s]tates and their political subdivisions should use 911 or E-911 fees only for direct improvements to the 911 system. Such improvements could include improving the technical and operational aspects of PSAPs; establishing connections between PSAPs and other public safety operations, such as a poison control center; or implementing the migration of PSAPs to an IP-enabled emergency network.”<sup>54</sup> Further, “[t]his provision is not intended to allow 911 or E-911 fees to be used for other public safety activities that, although potentially worthwhile, are not directly tied to the operation and provision of emergency services by the PSAPs.”<sup>55</sup>

27. We seek comment on our proposed designation of acceptable purposes and functions under the statute. Are the proposed purposes and functions that would be deemed acceptable overinclusive or underinclusive? If the proposed purposes are overinclusive, commenters should explain how and why. What purposes and functions have states and taxing jurisdictions specified as the intended functions for 911 fees and charges, and how should we take these specifications into account as we designate acceptable purposes and functions under section 902? CTIA contends that allowable 911 expenditures should include the nonrecurring costs of establishing a 911 system, the cost of emergency telephone and dispatch equipment, and costs for training for maintenance and operation of the 911 system but should exclude costs for leasing real estate, cosmetic remodeling of facilities, salaries or benefits, or emergency vehicles.<sup>56</sup> The Commission has found in its 911 fee reports, however, that some PSAP overhead costs, such as 911 telecommunicator salaries, are 911 related.<sup>57</sup> To the extent that the proposed purposes and functions are underinclusive, commenters should identify what additional purposes and functions should be deemed acceptable, and why.

28. We also propose to define acceptable purposes and functions under section 902 for states and taxing jurisdictions that impose multi-purpose fees or charges intended to support 911 services as well as other public safety purposes. In such instances, we believe states and taxing jurisdictions should have the flexibility to apportion the collected funds between 911-related and non-911 related programs, but that safeguards are needed to ensure that such apportionment is not subject to manipulation that would constitute fee diversion. We therefore propose to adopt a safe harbor in our rules providing that the obligation or expenditure of such fees or charges will not constitute diversion so long as the state or taxing jurisdiction: (1) specifies the amount or percentage of such fees or charges that is dedicated to 911 services; (2) ensures that the 911 portion of such fees or charges is segregated and not commingled with

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<sup>52</sup> See Eleventh Report at 42, para. 32; see also Eleventh Report at 44, para. 37 (finding that there was no 911 fee diversion where Virginia allocated a portion of its wireless E911 funding to the Virginia State Police for costs incurred for answering wireless 911 telephone calls and to support sheriff’s 911 dispatchers).

<sup>53</sup> See House of Representatives Committee on Energy and Commerce, Report on 911 Modernization and Public Safety Act of 2007 at 11 (Nov. 13, 2007), <https://www.congress.gov/110/crpt/hrpt442/CRPT-110hrpt442.pdf> (“The most recent data available indicate that four states use 911 fees, including wireless and wireline fees, for purposes other than 911 or emergency communications services.”).

<sup>54</sup> *Id.* at 15.

<sup>55</sup> *Id.*

<sup>56</sup> CTIA Comments on NOI at 5-6.

<sup>57</sup> See, e.g., Eleventh Report at 21, para. 18; Tenth Report at 44-45, para. 33.

any other funds; and (3) obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section. This provision would provide transparency in the use of 911 fees when a state or taxing jurisdiction collects a fee for both 911 and non-911 purposes. It would also enable the Commission to verify through the annual fee report data collection that the 911 portion of such fees or charges is not being diverted.<sup>58</sup>

29. We seek comment on our proposal for determining whether there is diversion of a fee or charge collected for both 911 and non-911 purposes. Are the measures we propose sufficient to provide transparency with respect to diversion in the use of such fees? Are there other measures that would help ensure that 911 fees or charges are fully traceable in states or taxing jurisdictions with such funding mechanisms? In addition, some state laws and regulations provide that any excess 911 funds left over after all 911 expenditures have been covered can be used for non-911 related purposes.<sup>59</sup> Similarly, some state laws and regulations provide that if the 911 service is *discontinued*, the remaining 911 funds can be disbursed to non-911 uses, such as a general fund. Does the existence or implementation of such provisions for non-911 related disbursements constitute diversion?

### C. Petition for Determination

30. Section 902(c)(1)(C) provides that a state or taxing jurisdiction may petition the Commission for a determination that “an obligation or expenditure of a 911 fee or charge for a purpose or function other than a purpose or function designated as 911-related under paragraph (3)(A) [support for 911 services/PSAP expenditures] should be treated as such a purpose or function.”<sup>60</sup> The state or taxing jurisdiction must demonstrate that the expenditure: (1) “supports public safety answering point functions or operations,” or (2) has a direct impact on the ability of a public safety answering point to “receive or respond to 911 calls” or to “dispatch emergency responders.”<sup>61</sup> If the Commission finds that the state or taxing jurisdiction has provided sufficient documentation to make this demonstration, section 902 provides that the Commission shall grant the petition.<sup>62</sup>

31. We propose to codify these provisions in new subpart I of the rules. We believe Congress intended this petition process to serve as a safety valve allowing states to seek further refinement of the definition of obligations and expenditures that are considered 911 related. At the same time, the proposed rule would set clear standards for what states must demonstrate to support a favorable ruling, including the requirement to provide sufficient documentation. To promote efficiency in reviewing such petitions, we also propose that states or taxing jurisdictions seeking such a determination

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<sup>58</sup> This proposal is consistent with the agency’s review of the U.S. Virgin Islands’ “Emergency Service” surcharge, which is dedicated for both 911 and non-911 purposes. The Eleventh Report noted that under the U.S. Virgin Islands’ statute, surcharge funds are deposited in an Emergency Service Fund (ESF), with ESF funds allocated 40% to the Virgin Islands Emergency Management Agency (VITEMA) and the other 60% allocated to other specific public safety, non-911 uses. *See* Eleventh Report at 44-45, paras. 39-40. In addition, the percentage of the ESF allocated to VITEMA must be used entirely for 911/E911 support of PSAPs, and the ESF cannot be commingled with or redirected to the general fund or any other account. *See id.* at 45, para. 40. The Commission concluded that the collection and use of these surcharge funds did not constitute diversion of 911 fees. *See* Eleventh Report at 44-45, paras. 39-40.

<sup>59</sup> The Task Force on Optimal PSAP Architecture (TFOPA) report noted, “The legislative practice of sweeping uncommitted balances of 9-1-1-related accounts, especially those intended to fund NG9-1-1 system infrastructure generally occurs quietly without much public scrutiny.” FCC, Task Force on Optimal PSAP Architecture (TFOPA), Final Report at 153-154 (Jan. 29, 2016), <https://www.fcc.gov/about-fcc/advisory-committees/general/task-force-optimal-public-safety-answering-point> (TFOPA Final Report). The TFOPA Final Report proposed measures to deter such sweeps and advised “there should ultimately be consequences for *repeated* diversions.” *Id.* at 161-162.

<sup>60</sup> 47 U.S.C. § 615a-1(f)(5)(A).

<sup>61</sup> 47 U.S.C. § 615a-1(f)(5)(B).

<sup>62</sup> 47 U.S.C. § 615a-1(f)(5)(A).

must do so by filing a petition for declaratory ruling under section 1.2 of the Commission's rules.<sup>63</sup> The declaratory ruling process would promote transparency regarding the ultimate decisions about 911 fee revenues that legislatures and executive officials make and how such decisions promote effective 911 services and deployment of NG911. Consistent with the declaratory ruling process outlined in section 1.2(b), we anticipate docketing the petition within an existing or new proceeding.<sup>64</sup> In addition, we anticipate the Public Safety and Homeland Security Bureau will seek comment on petitions via public notice and with a comment and reply comment cycle.<sup>65</sup> We propose to delegate authority to the Bureau to rule on these petitions. We seek comment on these proposals and on any possible alternative processes for entertaining such petitions.

#### **D. Other Section 902 Provisions**

32. Pursuant to section 902(d)(4), any state or taxing jurisdiction identified by the Commission in the annual 911 fee report as engaging in diversion of 911 fees or charges "shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 . . . or any advisory committee established by the Commission."<sup>66</sup> We propose to codify this restriction in subpart I and seek comment on this proposal. We also seek comment on the extent to which state and local governments currently diverting 911 fees (based on the Commission's most recent report) now participate in such Commission advisory committees and the impact on them from being prohibited from doing so. Would it be helpful to provide a mechanism for states and taxing jurisdictions to raise questions regarding their eligibility to serve on an advisory committee?

33. Section 902(c)(1)(C) also provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after the date of enactment of Section 902, "such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare [the annual report to Congress on 911 fees]."<sup>67</sup> We propose to codify this provision in subpart I and seek comment on this proposal. What effect does this statutory provision and its proposed codification in the Commission's rules have on states or taxing jurisdictions that receive such grants? Does this provision, combined with other statutory anti-diversion restrictions that already apply to 911 grant recipients, increase the likelihood that diverting states and taxing jurisdictions will change their diversion practices?<sup>68</sup> Are there any aspects of our proposed implementation of section 902 that might create obstacles to state fiscal needs?

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<sup>63</sup> See 47 CFR § 1.2.

<sup>64</sup> See 47 CFR § 1.2(b).

<sup>65</sup> See 47 CFR § 1.2(b).

<sup>66</sup> Section 902(d)(4) (internal citations omitted). The committees, panels, and councils referred to in section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 are those established to assist FirstNet. See 47 U.S.C. § 1425.

<sup>67</sup> 47 U.S.C. § 615a-1(f)(4) (as amended); Section 902(c)(1)(C).

<sup>68</sup> The ENHANCE 911 Act authorizes matching grants for eligible projects, required grant applicants to certify that no portion of 911 charges were obligated or expended for "any purpose other than the purposes for which such charges are designated or presented." See *ENHANCE 911 Act* (codified at 47 U.S.C. § 942(c)(2)). The Middle Class Tax Relief and Job Creation Act of 2012 requires grant recipients that improperly obligated or expended designated 911 charges to return all granted funds to the 9-1-1 Implementation Coordination Office. Sec. 6503, § 158(c)(3), 126 Stat. at 239 (codified at 47 U.S.C. § 942(c)(3)).

#### IV. PROCEDURAL MATTERS

34. *Initial Paperwork Reduction Act of 1995 Analysis.* This Notice of Proposed Rulemaking may contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995.<sup>69</sup> If the Commission adopts any new or modified information collection requirements, they will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,<sup>70</sup> we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”<sup>71</sup>

35. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>72</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>73</sup> Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this Notice of Proposed Rulemaking. The IRFA is contained in Appendix B.

36. *Ex Parte Presentations—Permit-But-Disclose.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>74</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filing in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules. In proceedings governed by section 1.49(f) of the Commission’s rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

37. *Comment Filing Instructions.* Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document in CG Docket No. 02-278. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).<sup>75</sup>

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<sup>69</sup> Pub. L. No. 104-13.

<sup>70</sup> Public Law 107-198.

<sup>71</sup> 44 U.S.C. § 3506(c)(4).

<sup>72</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>73</sup> *Id.* § 605(b).

<sup>74</sup> 47 CFR §§ 1.1200 *et seq.*

<sup>75</sup> *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.
  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

38. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

39. *Additional Information.* For additional information on this proceeding, contact Brenda Boykin, [Brena.Boykin@fcc.gov](mailto:Brena.Boykin@fcc.gov) or 202-418-2062, or John A. Evanoff, [John.Evanoff@fcc.gov](mailto:John.Evanoff@fcc.gov) or 202-418-0848 of the Public Safety and Homeland Security Bureau, Consumer Policy Division.

## V. ORDERING CLAUSES

40. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 4(o), 201(b), 251(e), 301, 303(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 154(o), 201(b), 251(e), 301, 303(b), and 303(r), the Don't Break Up The T-Band Act of 2020, Section 902 of Title IX, Division FF of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 47 U.S.C. § 615a-1, and the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 47 U.S.C. §§ 615 note, 615, 615a, and 615b, that this *Notice of Proposed Rulemaking* is hereby ADOPTED.

41. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the *Notice of Proposed Rulemaking* on or before 20 days after publication in the Federal Register, and reply comments on or before 30 days after publication in the Federal Register.

42. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****Proposed Rules**

The Federal Communications Commission proposes to amend part 9 of Title 47 of the Code of Federal Regulations as follows:

**PART 9 – 911 Requirements**

1. Revise the authority citation for part 9 to read as follows: [TO BE INSERTED PRIOR TO FEDERAL REGISTER PUBLICATION]
2. Amend part 9 by adding subpart I to read as follows:

**Subpart I – 911 Fees**

Sec.

9.21 Applicability.

9.22 Definitions.

9.23 Designation of acceptable obligations or expenditures.

9.24 Petition regarding additional purposes and functions.

9.25 Participation in annual fee report data collection.

9.26 Advisory committee participation.

**§ 9.21 Applicability.**

The rules in this subpart I apply to States or taxing jurisdictions that collect 911 fees or charges (as defined in this subpart) from commercial mobile services, IP-enabled voice services, and other emergency communications services.

**§ 9.22 Definitions.**

For purposes of this subpart I, the terms below have the following meaning:

*911 fee or charge.* A fee or charge applicable to commercial mobile services, IP-enabled voice services, or other emergency communications services specifically designated by a State or taxing jurisdiction for the support or implementation of 911 services. A 911 fee or charge shall also include a fee or charge designated for the support of public safety, emergency services, or similar purposes if the purposes or allowable uses of such fee or charge include the support or implementation of 911 services.

*Diversion.* The obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to § 9.23. Diversion also includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated as acceptable by the Commission pursuant to § 9.23.

*Other emergency communications services.* The provision of emergency information to a public safety answering point via wire or radio communications, and may include 911 and E911 service.

*State.* Any of the several States, the District of Columbia, or any territory or possession of the United States.

*State or taxing jurisdiction.* A State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

**§ 9.23 Designation of acceptable obligations or expenditures.**

- (a) Acceptable purposes and functions for the obligation or expenditure of 911 fees or charges are limited to:
  - (1) Support and implementation of 911 services provided by or in the State or taxing jurisdiction imposing the fee or charge; and
  - (2) Operational expenses of public safety answering points within such State or taxing jurisdiction.
- (b) Examples of acceptable purposes and functions include, but are not limited to, the following, provided that the State or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:
  - (1) PSAP operating costs, including lease, purchase, maintenance, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility;
  - (2) PSAP personnel costs, including telecommunicators' salaries and training;
  - (3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;
  - (4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations;
  - (5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.
- (c) Examples of purposes and functions that are not acceptable for the obligation or expenditure of 911 fees or charges include, but are not limited to, the following:
  - (1) Transfer of 911 fees into a State or other jurisdiction's general fund or other fund for non-911 purposes;
  - (2) Equipment or infrastructure for constructing or expanding non-public safety communications networks (e.g., commercial cellular networks);
  - (3) Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities, including public safety radio equipment and infrastructure, that does not have a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders.
- (d) If a State or taxing jurisdiction collects fees or charges designated for "public safety," "emergency services," or similar purposes that include the support or implementation of 911 services, the obligation or expenditure of such fees or charges shall not constitute diversion provided that the State or taxing jurisdiction:
  - (1) Specifies the amount or percentage of such fees or charges that is dedicated to 911 services;
  - (2) Ensures that the 911 portion of such fees or charges is segregated and not commingled with any other funds; and
  - (3) Obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section.

**§ 9.24 Petition regarding additional purposes and functions.**

- (a) A State or taxing jurisdiction may petition the Commission for a determination that an obligation or expenditure of 911 fees or charges for a purpose or function other than the purposes or functions designated as acceptable in § 9.23 should be treated as an acceptable purpose or function. Such a petition must meet the requirements applicable to a petition for declaratory ruling under § 1.2 of this chapter.
- (b) The Commission shall grant the petition if the State or taxing jurisdiction provides sufficient documentation to demonstrate that the purpose or function:
  - (1) supports public safety answering point functions or operations, or
  - (2) has a direct impact on the ability of a public safety answering point to:
    - (i) receive or respond to 911 calls, or
    - (ii) dispatch emergency responders.

### **§ 9.25 Participation in annual fee report data collection.**

If a State or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a-1(f)(2)).

### **§ 9.26 Advisory committee participation.**

Notwithstanding any other provision of law, any State or taxing jurisdiction identified by the Commission in the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a-1(f)(2)) as engaging in diversion of 911 fees or charges shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1425(a)) or any advisory committee established by the Commission.

## APPENDIX B

### Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking (NPRM)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

#### A. Need for, and Objectives of, the Proposed Rules

2. The *NPRM* proposes and seeks comment on ways to implement section 902 of the Consolidated Appropriations Act of 2021.<sup>4</sup> On December 27, 2020, the President signed the Don't Break Up The T-Band Act of 2020, which is Division FF, Title IX, Section 902 of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260). Section 902 directs the Commission to issue final rules 180 days after enactment on December 27, 2020 designating acceptable purposes and functions for the obligation or expenditure of 911 fees by states and taxing jurisdictions. Section 902 also provides that the use of 911 fees for any purpose or function other than those designated by the Commission constitutes 911 fee diversion.

3. To implement section 902 of the Act, the *NPRM* seeks comment on the Commission's proposals to amend part 9 of the rules to establish a new subpart I regarding "911 Fees." Section 902 defines several terms which the *NPRM* proposes to codify these definitions in the new subpart I of the rules. In addition, section 902 directs the Commission to issue final rules designating purposes and functions for which the obligation or expenditure of 911 fees is acceptable. It also provides that the purposes and functions identified by the Commission as acceptable "shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction." The *NPRM* seeks comments on proposals to develop an illustrative, non-exhaustive list of permissible and non-permissible uses for purposes of section 902.

4. Section 902 provides that a state or taxing jurisdiction may petition the FCC for a determination that an obligation or expenditure of a 911 fee for a purpose or function other than those deemed acceptable by the Commission should be treated as an acceptable expenditure. Per section 902, the petition must demonstrate that the expenditure: (1) supports public safety answering point (PSAP) functions or operations, or (2) has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. If the Commission finds that a state or taxing jurisdiction has provided sufficient documentation to make this demonstration, the statute provides that it shall grant the petition. In addition, the Commission seeks comment on amending the rules to require that if a state or

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902).

taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such state or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the annual report to Congress required by the NET 911 Act. The *NPRM* seeks comment on proposals to codify these provisions in subpart I of part 9 of the rules.

## **B. Legal Basis**

5. This action was taken pursuant to Sections 1, 4(i), 4(j), 4(o), 201(b), 251(e), 301, 303(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 154(o), 201(b), 251(e), 301, 303(b), and 303(r), the Don't Break Up The T-Band Act of 2020, Section 902 of Title IX, Division FF of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 47 U.S.C. § 615a-1, and the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 47 U.S.C. §§ 615 note, 615, 615a, and 615b.

## **C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>5</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act.<sup>7</sup> A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>8</sup>

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.<sup>9</sup> First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA's) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>10</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.<sup>11</sup>

8. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>12</sup> The

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<sup>5</sup> See 5 U.S.C. § 603(b)(3).

<sup>6</sup> See *id.* § 601(6).

<sup>7</sup> See *id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>8</sup> See 15 U.S.C. § 632.

<sup>9</sup> See 5 U.S.C. § 601(3)-(6).

<sup>10</sup> See SBA, Office of Advocacy, “What's New With Small Business?”, <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf> (Sept 2019).

<sup>11</sup> *Id.*

<sup>12</sup> 5 U.S.C. § 601(4).

Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>13</sup> Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>14</sup>

9. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>15</sup> U.S. Census Bureau data from the 2017 Census of Governments<sup>16</sup> indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>17</sup> Of this number there were 36,931 general purpose governments (county<sup>18</sup>, municipal and town or township<sup>19</sup>) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts<sup>20</sup> with enrollment populations of less than 50,000.<sup>21</sup> Accordingly, based on the 2017 U.S. Census of Governments data, we

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<sup>13</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C. § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>14</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>15</sup> 5 U.S.C. § 601(5).

<sup>16</sup> See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>17</sup> See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also Table 2. CG1700ORG02 Table Notes\_Local Governments by Type and State\_2017.

<sup>18</sup> See *id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>19</sup> See *id.* at Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

<sup>20</sup> See *id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2017.

<sup>21</sup> While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments

(continued....)

estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”<sup>22</sup>

10. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.<sup>23</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>24</sup> For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year.<sup>25</sup> Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1000 employees or more.<sup>26</sup> Thus, under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

11. *Wired Telecommunications Carriers*. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”<sup>27</sup> The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.<sup>28</sup> U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.<sup>29</sup> Of this total, 3,083 operated with fewer than 1,000 employees.<sup>30</sup> Thus, under

(Continued from previous page) \_\_\_\_\_  
category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>22</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations Tables 5, 6, and 10.

<sup>23</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite)”, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517312&search=2017+NAICS+Search&search=2017>.

<sup>24</sup> See 13 CFR § 121.201, NAICS Code 517312 (previously 517210).

<sup>25</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series: Estab and Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517210, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517210&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false&vintage=2012>.

<sup>26</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>27</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517311 Wired Telecommunications Carriers”, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017>.

<sup>28</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>29</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

this size standard, the majority of firms in this industry can be considered small.

12. *All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>31</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>32</sup> Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.<sup>33</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with annual receipts of \$35 million or less.<sup>34</sup> For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year.<sup>35</sup> Of those firms, a total of 1,400 had annual receipts less than \$25 million, and 15 firms had annual receipts of \$25 million to \$49, 999,999.<sup>36</sup> Thus, the Commission estimates that the majority of “All Other Telecommunications” firms potentially affected by our action can be considered small.

#### **D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

13. As indicated in Section A above, the *NPRM* seeks comment on proposed rules to implement section 902. The *NPRM* generally does not propose specific reporting or recordkeeping requirements. The *NPRM* does, however, propose and seek comment on codifying the requirement that states or taxing jurisdictions seeking a Commission determination on 911 fee diversion satisfy certain criteria established in section 902. In such cases, a state or taxing jurisdiction would have to show that a proposed expenditure: (1) supports PSAP functions or operations, or (2) has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. If the Commission finds that a state or taxing jurisdiction has provided sufficient documentation to make this demonstration, the statute provides that it shall grant the petition. The information and documentation that a state or taxing jurisdiction will have to provide the Commission to make the requisite showing will impact the reporting and recordkeeping requirements for small entities and others subject to the requirements. The Commission proposes to apply the existing declaratory ruling procedures and obligations under section 1.2 of the Commission’s rules, which small entities may already be familiar with, to petitions for determination.

14. In addition, the *NPRM* seeks comment on amending the rules to require that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such state or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the

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<sup>30</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>31</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517919 All Other Telecommunications”, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517919&search=2017+NAICS+Search&search=2017>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> See 13 CFR § 121.201, NAICS Code 517919.

<sup>35</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 517919, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517919&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>36</sup> *Id.*

Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)). This proposed requirement is consistent with the requirements of Section 902. Under OMB Control No. 3060-1122, the Office of Management and Budget previously approved and renewed the information collection requirements associated with filing annual 911 fee reports as mandated by the NET 911 Act.

**E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

15. The RFA requires an agency to describe any significant specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>37</sup>

16. In the *NPRM*, the Commission seeks to implement the provisions of section 902 that require Commission action by proposing changes to part 9 of our rules that would achieve the stated objectives of Congress’s mandated rules in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunication services or to states and taxing jurisdictions. Using this approach, we inherently take steps to minimize any significant economic impact or burden for small entities. Specifically, we propose to adopt and codify the definitions in section 902 for certain terms relating to 911 fees and fee diversion in part 9 of our rules. For a few terms, we make limited modifications to the definition to avoid gaps and promote the apparent intent of the new statute.<sup>38</sup> In addition to promoting consistency, we believe our proposals will help small entities and others who will be subject to section 902 and our rules avoid additional expenses for compliance which may have resulted if the Commission in the alternative proposed and adopted different definitions for certain terms in section 902 relating to 911 fees and fee diversion.

17. Similarly, to fulfill the Commission obligations associated with issuing rules designating acceptable purposes and functions, for consistency we propose to use language from section 902 codifying the statutory standard for which the obligation or expenditure of 911 fees or charges by any state or taxing jurisdiction is considered acceptable. We also propose to specify in the rules examples of both acceptable and unacceptable purposes and functions for the obligation or expenditure of 911 fees or charges. If adopted, identifying and including these examples in the Commission’s rules should enable small entities to avoid unacceptable expenditures in violation of our rules, which could impact eligibility for federal grants and participation in federal advisory committees.

18. Finally, the Commission expects to more fully consider the economic impact on small entities, as identified in comments filed in response to the *NPRM* and this IRFA, in reaching its final conclusions and taking action in this proceeding.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

19. None.

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<sup>37</sup> 5 U.S.C. § 603(c)(1) - (4).

<sup>38</sup> The definitions for the terms “911 fee or charge” and “Diversion” include modifications.

S T A T E O F M I C H I G A N

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

**ADMINISTRATION—EXTEND COVID-19 PREPAREDNESS, RESPONSE AND SAFE WORK PLAN**

**WHEREAS**, on May 14, 2020, the Board adopted the County's COVID-19 Preparedness, Response and Safe Work Plan (Plan); and

**WHEREAS**, on December 10, 2020, the Board extended the County's Plan through to March 31, 2021; and

**WHEREAS**, as the pandemic remains a concern.

**THEREFORE BE IT RESOLVED**, the County's Plan and related maintenance of the Plan shall be extended through December 31, 2021; and

**BE IT FINALLY RESOLVED** the Board will evaluate the need for further extension prior to this expiration date.

S T A T E O F M I C H I G A N

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

**SHERIFF'S DEPARTMENT—APPLY/ACCEPT MARINE SLOW NO WAKE ZONE ENFORCEMENT GRANT**

**WHEREAS**, the Department of Natural Resources recently announced a new \$1.75 million grant initiative to enforce slow-no wakes zones, with the goal of mitigating high-water impacts on local infrastructure; and

**WHEREAS**, the Sheriff's Department is requesting to apply for said grant; and

**WHEREAS**, there is no local match for said grant and the grant will be applied for, accepted and managed consistent with the Board approved budget policy.

**THEREFORE BE IT RESOLVED** that the Board authorizes the County Administrator to approve application once complete and contingent upon review is further authorized to accept upon award.