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## A BILL FOR AN ACT

RELATING TO WIRELESS ENHANCED 911 SERVICE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 138-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[f]~~ §138-3 ~~[f]~~ **Wireless enhanced 911 fund.** There is  
4 established outside the state treasury a special fund, to be  
5 known as the wireless enhanced 911 fund, to be administered by  
6 the board. The fund shall consist of amounts collected under  
7 section 138-4. Moneys paid into the fund are not general fund  
8 revenues of the State. The board shall place the funds in an  
9 interest-bearing account at any federally insured financial  
10 institution, separate and apart from the general fund of the  
11 State. Moneys in the fund shall be expended exclusively by the  
12 board for the purposes of ensuring adequate cost recovery for  
13 the deployment of phase I and phase II wireless enhanced 911  
14 service and for expenses of administering the fund. The fund  
15 shall cease to exist once all moneys in the fund have been  
16 expended. "

17           SECTION 2. Section 138-6, Hawaii Revised Statutes, is  
18 amended to read as follows:



1 "[+]§138-6[+] **Report to the legislature.** The board shall  
2 submit an annual report to the legislature, including:

3 (1) The total aggregate surcharge collected by the State  
4 in the last fiscal year;

5 (2) The amount of disbursement from the fund;

6 (3) The recipient of each disbursement and a description  
7 of the project for which the money was disbursed;

8 (4) The conditions, if any, placed by the board on  
9 disbursements from the fund;

10 (5) The planned expenditures from the fund in the next  
11 fiscal year[+] and each fiscal year until all moneys  
12 in the fund have been expended;

13 (6) The amount of any unexpended funds carried forward for  
14 the next fiscal year;

15 [~~7~~] ~~A cost study to guide the legislature towards~~  
16 ~~necessary adjustments to the fund and the monthly~~  
17 ~~surcharge,] and~~

18 [~~8~~] (7) A progress report of jurisdictional readiness for  
19 wireless E911 services, including public safety  
20 answering points, wireless providers, and wireline  
21 providers. The report shall include the status of  
22 requirements outlined in the Federal Communications



1 Commission Order 94-102 and subsequent supporting  
2 orders related to phase I and phase II wireless 911  
3 services."

4 SECTION 3. Section 138-4, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"[§138-4] Surcharge.~~ (a) ~~A monthly wireless enhanced~~  
7 ~~911 surcharge, subject to this chapter, shall be imposed upon~~  
8 ~~each commercial mobile radio service connection.~~

9 ~~(b) The effective date of the surcharge shall be July 1,~~  
10 ~~2004. The rate of the surcharge shall be set at 66 cents per~~  
11 ~~month for each commercial mobile radio service connection. The~~  
12 ~~surcharge shall have uniform application and shall be imposed on~~  
13 ~~each commercial mobile radio service connection operating within~~  
14 ~~the State except:~~

15 ~~(1) Connections billed to federal, state, and county~~  
16 ~~government entities; and~~

17 ~~(2) Prepaid connections.~~

18 ~~(c) All wireless providers and resellers shall bill to and~~  
19 ~~collect from each of their customers a monthly surcharge at the~~  
20 ~~rate established for each commercial mobile radio service~~  
21 ~~connection. The wireless provider or reseller may list the~~  
22 ~~surcharge as a separate line item on each bill. If a wireless~~



1 ~~provider or reseller receives a partial payment for a monthly~~  
2 ~~bill from a commercial mobile radio service customer, the~~  
3 ~~wireless provider or reseller shall apply the payment against~~  
4 ~~the amount the customer owes the wireless provider or reseller,~~  
5 ~~before applying the partial payment against the surcharge.~~

6 ~~(d) A wireless provider that:~~

7 ~~(1) Is collecting the surcharge and remitting appropriate~~  
8 ~~portions of the surcharge to the fund pursuant to this~~  
9 ~~chapter, and~~

10 ~~(2) Has been requested by a public safety answering point~~  
11 ~~to provide phase I or phase II wireless enhanced 911~~  
12 ~~service in a particular county or counties,~~

13 ~~may recover wireless enhanced 911 commercial mobile radio~~  
14 ~~service costs as provided in this chapter.~~

15 ~~(e) Each wireless provider or reseller may retain two per~~  
16 ~~cent of the amount of surcharges collected to offset~~  
17 ~~administrative expenses associated with billing and collecting~~  
18 ~~the surcharge.~~

19 ~~(f) A wireless provider or reseller shall remit to the~~  
20 ~~wireless enhanced 911 fund, within sixty days after the end of~~  
21 ~~the calendar month in which the surcharge is collected, an~~  
22 ~~amount that represents the surcharges collected less amounts~~



1 ~~retained for administrative expenses incurred by the wireless~~  
2 ~~provider or reseller, as provided in subsection (e).~~

3 ~~(g) The surcharges collected by the wireless provider or~~  
4 ~~reseller pursuant to this section shall not be subject to any~~  
5 ~~tax, fee, or assessment, nor are they considered revenue of the~~  
6 ~~provider or reseller.~~

7 ~~(h) Each customer who is subject to this chapter shall be~~  
8 ~~liable to the State for the surcharge until it has been paid to~~  
9 ~~the wireless provider. Wireless providers shall have no~~  
10 ~~liability to remit surcharges that have not been paid by~~  
11 ~~customers. A wireless provider or reseller shall have no~~  
12 ~~obligation to take any legal action to enforce the collection of~~  
13 ~~the surcharge for which any customer is billed. However, the~~  
14 ~~board may initiate a collection action against the customer. If~~  
15 ~~the board prevails in such a collection action, reasonable~~  
16 ~~attorney's fees and costs shall be awarded.~~

17 ~~(i) At any time the members deem it necessary and~~  
18 ~~appropriate, the board may meet to make recommendations to the~~  
19 ~~legislature as to whether the surcharge and fund should be~~  
20 ~~discontinued, continued as is, or amended.~~

21 ~~(j) When considering whether to discontinue, continue as~~  
22 ~~is, or amend the fund or surcharge, the board's recommendations~~



1 ~~shall be based on the latest available information concerning~~  
2 ~~costs associated with providing wireless enhanced 911 service in~~  
3 ~~accordance with the Federal Communications Commission order." ]~~

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2008.

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INTRODUCED BY: *[Signature]*  
*Alvin K. Sims*

JAN 21 2008

**Report Title:**

Wireless Enhanced 911; Surcharge

**Description:**

Eliminates the \$0.66 monthly surcharge on wireless telephone accounts and terminates the wireless enhanced 911 fund once all moneys in the fund are expended. Effective 7/1/2008.

