

JAN 18 2008

A BILL FOR AN ACT

RELATING TO ENHANCED 911 SERVICES FOR MOBILE PHONES.

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

1 SECTION 1. Chapter 138 requires wireless providers to
2 impose a surcharge on mobile phone service connections. Moneys
3 collected from the surcharge are deposited into the wireless
4 enhanced 911 fund, and are to be used to ensure cost recovery
5 for deployment of enhanced wireless 911 services. The
6 Legislature finds that the surcharge is no longer necessary
7 because deployment of enhanced wireless 911 services is
8 substantially completed. The purpose of this Act is to repeal
9 the surcharge.

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

12 " ~~[+] §138-3 [.]~~ **Wireless enhanced 911 fund.** There is
13 established outside the state treasury a special fund, to be
14 known as the wireless enhanced 911 fund, to be administered by
15 the board. ~~[The fund shall consist of amounts collected under~~
16 ~~section 138-4. Moneys paid into the fund are not general fund~~
17 ~~revenues of the State.]~~ The fund shall consist of



1 appropriations made by the legislature to the fund. The board
2 shall place the funds in an interest-bearing account at any
3 federally insured financial institution, separate and apart from
4 the general fund of the State. Moneys in the fund shall be
5 expended exclusively by the board for the purposes of ensuring
6 adequate cost recovery for the deployment of phase I and phase
7 II wireless enhanced 911 service and for expenses of
8 administering the fund."

9 SECTION 3. Section 138-5, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) After January 1, 2005, each wireless provider may
12 request reimbursement from the fund of wireless enhanced 911
13 commercial mobile radio service costs incurred; provided that
14 the costs [+

15 ~~(1) Are recoverable under section 138-4(d); and~~

16 ~~(2) Have]~~ have not already been reimbursed to the wireless
17 provider from the fund. A wireless provider that has been
18 requested by a public safety answering point to provide phase I
19 or phase II wireless enhanced 911 service in a particular county
20 or counties, may recover wireless enhanced 911 commercial mobile
21 radio service costs as provided in this chapter.

22



1 ~~In no event shall a wireless provider be reimbursed for any~~
2 ~~amount above its actual wireless enhanced 911 commercial mobile~~
3 ~~radio service costs allowed to be recovered under section 138-~~
4 ~~4(d).]~~

5 SECTION 4. Section 138-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~f~~] **§138-6** [~~f~~] **Report to the legislature.** The board shall
8 submit an annual report to the legislature, including:

9 [~~(1)~~] ~~The total aggregate surcharge collected by the State~~
10 ~~in the last fiscal year;~~

11 ~~(2)~~] (1) The amount of disbursement from the fund;

12 [~~(3)~~] (2) The recipient of each disbursement and a
13 description of the project for which the money was
14 disbursed;

15 [~~(4)~~] (3) The conditions, if any, placed by the board on
16 disbursements from the fund;

17 [~~(5)~~] (4) The planned expenditures from the fund in the
18 next fiscal year;

19 [~~(6)~~] (5) The amount of any unexpended funds carried
20 forward for the next fiscal year;



1 ~~[(7)]~~ (6) A cost study to guide the legislature towards
2 necessary adjustments to the fund ~~[and the monthly~~
3 ~~surcharge]~~; and

4 ~~[(8)]~~ (7) A progress report of jurisdictional readiness for
5 wireless E911 services, including public safety
6 answering points, wireless providers, and wireline
7 providers. The report shall include the status of
8 requirements outlined in the Federal Communications
9 Commission Order 94-102 and subsequent supporting
10 orders related to phase I and phase II wireless 911
11 services."

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

14 ~~["§138-4] Surcharge. (a) A monthly wireless enhanced~~
15 ~~911 surcharge, subject to this chapter, shall be imposed upon~~
16 ~~each commercial mobile radio service connection.~~

17 ~~(b) The effective date of the surcharge shall be July 1,~~
18 ~~2004. The rate of the surcharge shall be set at 66 cents per~~
19 ~~month for each commercial mobile radio service connection. The~~
20 ~~surcharge shall have uniform application and shall be imposed on~~
21 ~~each commercial mobile radio service connection operating within~~
22 ~~the State except:~~



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

3 ~~(2) Prepaid connections.~~

4 ~~(c) All wireless providers and resellers shall bill to and~~
5 ~~collect from each of their customers a monthly surcharge at the~~
6 ~~rate established for each commercial mobile radio service~~
7 ~~connection. The wireless provider or reseller may list the~~
8 ~~surcharge as a separate line item on each bill. If a wireless~~
9 ~~provider or reseller receives a partial payment for a monthly~~
10 ~~bill from a commercial mobile radio service customer, the~~
11 ~~wireless provider or reseller shall apply the payment against~~
12 ~~the amount the customer owes the wireless provider or reseller,~~
13 ~~before applying the partial payment against the surcharge.~~

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

15 ~~(1) Is collecting the surcharge and remitting appropriate~~
16 ~~portions of the surcharge to the fund pursuant to this~~
17 ~~chapter; and~~

18 ~~(2) Has been requested by a public safety answering point~~
19 ~~to provide phase I or phase II wireless enhanced 911~~
20 ~~service in a particular county or counties,~~
21 ~~may recover wireless enhanced 911 commercial mobile radio~~
22 ~~service costs as provided in this chapter.~~



1 ~~(e) Each wireless provider or reseller may retain two per~~
2 ~~cent of the amount of surcharges collected to offset~~
3 ~~administrative expenses associated with billing and collecting~~
4 ~~the surcharge.~~

5 ~~(f) A wireless provider or reseller shall remit to the~~
6 ~~wireless enhanced 911 fund, within sixty days after the end of~~
7 ~~the calendar month in which the surcharge is collected, an~~
8 ~~amount that represents the surcharges collected less amounts~~
9 ~~retained for administrative expenses incurred by the wireless~~
10 ~~provider or reseller, as provided in subsection (e).~~

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

15 ~~(h) Each customer who is subject to this chapter shall be~~
16 ~~liable to the State for the surcharge until it has been paid to~~
17 ~~the wireless provider. Wireless providers shall have no~~
18 ~~liability to remit surcharges that have not been paid by~~
19 ~~customers. A wireless provider or reseller shall have no~~
20 ~~obligation to take any legal action to enforce the collection of~~
21 ~~the surcharge for which any customer is billed. However, the~~
22 ~~board may initiate a collection action against the customer. If~~



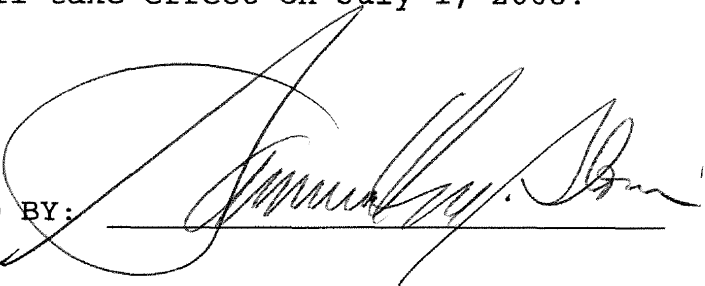
1 ~~the board prevails in such a collection action, reasonable~~
2 ~~attorney's fees and costs shall be awarded.~~

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

7 ~~(j) When considering whether to discontinue, continue as~~
8 ~~is, or amend the fund or surcharge, the board's recommendations~~
9 ~~shall be based on the latest available information concerning~~
10 ~~costs associated with providing wireless enhanced 911 service in~~
11 ~~accordance with the Federal Communications Commission order."]~~

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2008.

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16
INTRODUCED BY: 



Report Title:

Telecommunications; 911

Description:

Repeals the monthly surcharge on mobile phone connections used to fund implementation of wireless enhanced 911 services by wireless providers.

