
A BILL FOR AN ACT

RELATING TO ENHANCED 911 SERVICES.

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

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

3 " [+] CHAPTER 138 [+]]

4 ENHANCED 911 SERVICES FOR MOBILE PHONES

5 [+] §138-1 [+] Definitions. As used in this chapter, unless
6 the context requires otherwise:

7 "911" means the digits, address, internet protocol address,
8 or other information used to access or initiate a call to a
9 public safety answering point.

10 "911 system" means an emergency telephone system that does
11 the following:

12 (1) Enables the user of a voice or data communications
13 service connection to reach a public safety answering
14 point by dialing 911;

15 (2) The voice communications service may be telephone
16 service, computer service, wireless service, or other
17 service which facilitates the placing of calls by



1 persons in need of emergency services to a public
2 safety answering point;

3 (3) The data communications service may be text message or
4 some other service that transmits data exclusively;
5 and

6 (4) Provides enhanced 911 service.

7 "Automatic location identification" means a wireless
8 enhanced 911 service capability that enables the automatic
9 display of information indicating the approximate geographic
10 location of the wireless telephone used to place a 911 call in
11 accordance with the Federal Communications Commission order.

12 "Automatic number identification" means [~~a wireless~~] an
13 enhanced 911 service capability that enables the automatic
14 display of the ten-digit [~~wireless~~] telephone number [~~used to~~
15 ~~place a 911 call in accordance with the Federal Communications~~
16 ~~Commission order.~~] or some other unique identifier from which a
17 911 call is placed.

18 "Board" means the [~~wireless~~] enhanced 911 board established
19 under this chapter.

20 [~~"Commercial mobile radio service" means commercial mobile~~
21 ~~radio service under sections 3(27) and 332(d) of the Federal~~
22 ~~Telecommunications Act of 1996, 47 U.S.C. 151 et seq., and the~~



1 ~~Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, August~~
2 ~~10, 1993, 107 Stat. 312.~~

3 ~~"Commercial mobile radio service connection" means each~~
4 ~~active wireless telephone number assigned to a commercial mobile~~
5 ~~radio service customer, including end users of resellers whose~~
6 ~~place of primary use is within the State.~~

7 ~~"Federal Communications Commission order" means the~~
8 ~~original order issued in the Federal Communications Commission~~
9 ~~Docket No. 94-102 governing wireless enhanced 911 service and~~
10 ~~any other Federal Communication Commission orders related to the~~
11 ~~provision of wireless enhanced 911 service.]~~

12 "Call" means any communication, message, signal, or
13 transmission.

14 "Communication service" means a service capable of
15 accessing, connecting with, or interfacing with a 911 system, by
16 dialing, initializing, or otherwise activating the 911 system by
17 means of a local telephone device, cellular telephone device,
18 wireless communication device, interconnected voice over
19 Internet protocol (VoIP) device, or any other means.

20 "Communications service connection" means each telephone
21 number assigned to a residential or commercial subscriber by a



1 communications service provider, without regard to technology
2 deployed.

3 "Communications service provider" means an entity that
4 provides communications service to a subscriber.

5 "Database service provider" means a service supplier who
6 maintains and supplies or contracts to maintain and supply an
7 automatic information location database or master street address
8 guide.

9 "Enhanced 911 fund" or "fund" means the special fund
10 established by section 138-3.

11 "Enhanced 911 service costs" means all capital,
12 nonrecurring, and recurring costs directly related to the
13 implementation, operation, and administration of enhanced 911
14 services.

15 "Prepaid connections" means the sale of a
16 telecommunications service that provides the right to utilize
17 mobile wireless service, as well as other non-telecommunications
18 services including the download of digital products delivered
19 electronically, content and ancillary services, which is paid
20 for in advance and sold in predetermined units of dollars of
21 which the number of minutes declines with use of the services.



1 "Proprietary information" means customer lists and other
2 related information (including the number of customers),
3 technology descriptions, technical information, or trade
4 secrets, and the actual or developmental costs of ~~[wireless]~~
5 enhanced 911 service that are developed, produced, or received
6 internally by a ~~[wireless]~~ communications service provider or by
7 a provider's employees, directors, officers, or agents.

8 "Public safety agency" means a functional division of the
9 State or county that provides or has authority to provide, or a
10 private entity contracted by a state or county agency that
11 provides, firefighting, law enforcement, ambulance, medical, or
12 other emergency services.

13 "Public safety answering point" means the public safety
14 agency that receives incoming 911 calls and dispatches
15 appropriate public safety agencies to respond to those calls.

16 "Reseller" means a person or entity that purchases
17 ~~[commercial mobile radio service]~~ communications services from a
18 ~~[wireless]~~ communications service provider for the purpose of
19 reselling ~~[commercial mobile radio service]~~ communications
20 services to end-users.

21 ~~["Wireless enhanced 911 commercial mobile radio service~~
22 ~~costs" means all capital, nonrecurring, and recurring costs~~



1 ~~directly related to the implementation and operation of phase I~~
2 ~~or phase II wireless enhanced 911 services pursuant to the~~
3 ~~Federal Communications Commission order.~~

4 ~~"Wireless enhanced 911 fund" or "fund" means the statewide~~
5 ~~special fund established to ensure adequate cost recovery for~~
6 ~~the deployment of phase I and phase II wireless enhanced 911~~
7 ~~service in Hawaii.~~

8 ~~"Wireless provider" means a person or entity that is~~
9 ~~authorized by the Federal Communications Commission to provide~~
10 ~~facilities based commercial mobile radio service within the~~
11 ~~State.]~~

12 "Universal emergency number service" or "911 service" means
13 public communications service that provides service users with
14 the ability to reach a public safety answering point by
15 accessing a 911 system.

16 "VoIP provider" means an entity that provides
17 interconnected VoIP service.

18 [+]§138-2 [+] [~~Wireless enhanced~~] Enhanced 911 board. (a)
19 There is created within the department of accounting and general
20 services, for administrative purposes, [~~a wireless~~] an enhanced
21 911 board consisting of [~~eleven~~] fourteen voting members;
22 provided that the membership shall consist of:



- 1 (1) The comptroller or the comptroller's designee;
- 2 (2) Three representatives from the wireless communications
3 service providers, who shall be appointed by the
4 governor as provided in section 26-34, except as
5 otherwise provided by law;
- 6 (3) One representative each from the public safety
7 answering points for Oahu, Hawaii, Kauai, Maui, and
8 Molokai, who shall be appointed by the governor, as
9 provided in section 26-34, except as otherwise
10 provided by law, from a list of five names submitted
11 by each respective public safety answering point;
- 12 (4) The consumer advocate or the consumer advocate's
13 designee; [and]
- 14 (5) One representative from a VoIP providers, who shall be
15 appointed by the governor as provided in section 26-
16 34, except as otherwise provided by law;
- 17 (6) One representative from a common local exchange
18 carrier (CLEC) or other alternative communications
19 service provider, who shall be appointed by the
20 governor as provided in section 26-34, except as
21 otherwise provided by law;



- 1 (7) The director or designee of the Hawaii public
2 utilities commission; and
- 3 ~~[-5-]~~ (8) One representative of the current wireline
4 provider of enhanced 911.
- 5 (b) ~~[Six members]~~ A simple majority shall constitute a
6 quorum, whose affirmative vote shall be necessary for all
7 actions by the board.
- 8 (c) The chairperson of the board shall be elected by the
9 members of the board by simple majority and shall serve a term
10 of one year.
- 11 (d) The board shall meet upon the call of the chairperson,
12 but not less than quarterly.
- 13 (e) The members representing wireless, VoIP, and CLEC
14 service providers shall be appointed by the governor for terms
15 of two years [~~except that terms of the two members initially~~
16 ~~appointed shall be for eighteen months~~].
- 17 (f) Each member shall hold office until the member's
18 successor is appointed and qualified. Section 26-34 shall apply
19 only insofar as it relates to succession, vacancies, and
20 suspension of board members, and as provided in subsection (a).
- 21 (g) A member may vote by proxy submitted in writing to the
22 board.



1 [~~g~~] (h) The members shall serve without compensation.
2 Members shall be entitled to reimbursements from the [~~wireless~~]
3 enhanced 911 fund for reasonable traveling expenses incurred in
4 connection with the performance of board duties.

5 [~~h~~] (i) The board or its chairperson, with the approval of
6 the board, may retain independent, third-party accounting firms,
7 consultants, or other third party to:

8 (1) Create reports, make payments into the fund, process
9 checks, and make distributions from the fund, as
10 directed by the board and as allowed by this chapter;
11 and

12 (2) Perform administrative duties necessary to administer
13 the fund or oversee operations of the board, including
14 providing technical advisory support~~[-]~~; provided that
15 no third-party accounting firm, consultant, or other
16 third party hired to perform these administrative
17 duties may be retained if the accounting firm,
18 consultant, or other third party, either directly or
19 indirectly, has a conflict of interest or is
20 affiliated with the management of or owns a pecuniary
21 interest in any entity subject to the provisions of
22 this chapter.



1 [±] (j) The board shall develop reasonable procedures to
2 ensure that all [~~wireless providers~~] members receive adequate
3 notice of board meetings and information concerning board
4 decisions.

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

18 [+] §138-4 [+] **Surcharge.** (a) A monthly [~~wireless~~]
19 enhanced 911 surcharge, subject to this chapter, shall be
20 imposed upon each commercial mobile radio and wireline access
21 communications service connection.



1 (b) The effective date of the surcharge shall be July 1,
2 2004. The rate of the surcharge shall be set at [~~66~~] 46 cents
3 per month for each commercial mobile radio communications
4 service connection. The surcharge shall have uniform
5 application and shall be imposed on each [~~commercial mobile~~
6 ~~radio~~] communications service connection operating within the
7 State except:

8 (1) Connections billed to federal, state, and county
9 government entities; and

10 (2) Prepaid connections.

11 (c) All [~~wireless~~] communications service providers and
12 resellers shall bill to and collect from each of their customers
13 a monthly surcharge at the rate established for each [~~commercial~~
14 ~~mobile radio~~] communications service connection. The [~~wireless~~]
15 communications service provider or reseller may list the
16 surcharge as a separate line item on each bill. If a [~~wireless~~]
17 communications service provider or reseller receives a partial
18 payment for a monthly bill from a [~~commercial mobile radio~~]
19 communications service customer, the [~~wireless~~] communications
20 service provider or reseller shall apply the payment against the
21 amount the customer owes the [~~wireless~~] communications service



1 provider or reseller, before applying the partial payment
2 against the surcharge.

3 (d) A [~~wireless~~] communications service provider that:

4 (1) Is collecting the surcharge and remitting appropriate
5 portions of the surcharge to the fund pursuant to this
6 chapter; and

7 (2) Has been requested by a public safety answering point
8 to provide [~~phase I or phase II wireless~~] enhanced 911
9 service in a particular county or counties;

10 may recover [~~wireless~~] enhanced 911 commercial mobile radio
11 service costs as provided in this chapter.

12 (e) Each [~~wireless~~] communications service provider or
13 reseller may retain two per cent of the amount of surcharges
14 collected to offset administrative expenses associated with
15 billing and collecting the surcharge.

16 (f) A [~~wireless~~] communications service provider or
17 reseller shall remit to the [~~wireless~~] enhanced 911 fund, within
18 sixty days after the end of the calendar month in which the
19 surcharge is collected, an amount that represents the surcharges
20 collected less amounts retained for administrative expenses
21 incurred by the [~~wireless~~] communications service provider or
22 reseller, as provided in subsection (e).



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

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

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

20 (j) When considering whether to discontinue, continue as
21 is, or amend the fund or surcharge, the board's recommendations
22 shall be based on the latest available information concerning



1 costs associated with providing [wireless] enhanced 911 service
2 [~~in accordance with the Federal Communications Commission~~
3 ~~order~~].

4 [+] §138-5 [+] [Recovery] Disbursements from the fund. (a)
5 After January 1, 2005, every public safety answering point shall
6 be eligible to seek [~~reimbursement~~] disbursements from the fund
7 solely to pay for the reasonable costs to lease, purchase, or
8 maintain all necessary equipment, including computer hardware,
9 software, and database provisioning, required by the public
10 safety answering point to provide technical functionality for
11 the [wireless] enhanced 911 service [~~pursuant to the Federal~~
12 ~~Communications Commission order. All other expenses necessary~~
13 ~~to operate the public safety answering point, including but not~~
14 ~~limited to those expenses related to overhead, staffing, and~~
15 ~~other day to day operational expenses, shall continue to be paid~~
16 ~~through the general funding of the respective counties~~].

17 (b) After January 1, 2005, each [wireless] communications
18 service provider may request reimbursement from the fund of
19 [wireless] enhanced 911 [~~commercial mobile radio~~] service costs
20 incurred; provided that the costs:

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



1 (2) Have not already been reimbursed to the [wireless]
2 communications service provider from the fund.

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

7 ~~[(c) After the expenses of the board are paid, the public
8 safety answering points shall be allocated two thirds of the
9 remaining balance of the fund. The remaining one third shall be
10 available for wireless provider cost recovery. The board shall
11 determine the reimbursement amounts for the public safety
12 answering points, based on the limitations set forth in section
13 138-5(a). The reimbursement level for each wireless provider
14 shall be limited:~~

15 ~~(1) To the total contribution made by the wireless
16 provider to the wireless provider cost recovery
17 portion of the fund; and~~

18 ~~(2) As provided in section 138-5(b).]~~

19 **[+] §138-6 [+] Report to the legislature.** The board shall
20 submit an annual report to the legislature, including:

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



- 1 (2) The amount of disbursement from the fund;
- 2 (3) The recipient of each disbursement and a description
- 3 of the project for which the money was disbursed;
- 4 (4) The conditions, if any, placed by the board on
- 5 disbursements from the fund;
- 6 (5) The planned expenditures from the fund in the next
- 7 fiscal year;
- 8 (6) The amount of any unexpended funds carried forward for
- 9 the next fiscal year;
- 10 (7) A cost study to guide the legislature towards
- 11 necessary adjustments to the fund and the monthly
- 12 surcharge; and
- 13 (8) A progress report of jurisdictional readiness for
- 14 [~~wireless E911~~] enhanced 911 services, including
- 15 public safety answering points [~~, wireless providers,~~]
- 16 and [~~wireline~~] communications service providers. [~~The~~
- 17 ~~report shall include the status of requirements~~
- 18 ~~outlined in the Federal Communications Commission~~
- 19 ~~Order 94-102 and subsequent supporting orders related~~
- 20 ~~to phase I and phase II wireless 911 services.]~~
- 21 [~~+~~] §138-7 [~~+~~] **Audits.** (a) During any period in which [a
- 22 ~~wireless~~] an enhanced 911 surcharge is imposed upon customers,



1 the board may request an audited report prepared by an
 2 independent certified public accountant that demonstrates that
 3 the request for cost recovery from public safety answering
 4 points and [~~wireless~~] communications service providers recovers
 5 only costs and expenses directly related to the provision of
 6 [~~phase I or phase II wireless~~] enhanced 911 service as
 7 authorized by this chapter. The cost of the audited reports
 8 shall be considered expenses of the board. The board shall
 9 prevent public disclosure of proprietary information contained
 10 in the audited report, unless required by court order or
 11 appropriate administrative agency decision.

12 (b) The board shall select an independent third party to
 13 audit the fund every two years to determine whether the fund is
 14 being managed in accordance with this chapter. The board may
 15 use the audit to determine whether the amount of the surcharge
 16 assessed on each [~~commercial mobile radio~~] communications
 17 service connection is required to be adjusted. The costs of the
 18 audit shall be an administrative cost of the board recoverable
 19 from the fund.

20 [~~+~~] §138-8 [~~+~~] **Proprietary information.** (a) All
 21 proprietary information submitted to the board by any third
 22 party used by the board in connection with its duties or any



1 public safety answering point in deploying [~~wireless~~] enhanced
2 911 service shall be retained in confidence. Proprietary
3 information submitted pursuant to this chapter shall not be
4 released to any person, other than to the submitting [~~wireless~~]
5 communications service provider or reseller, the board, or any
6 independent, third-party accounting firm retained by the board,
7 without the express permission of the submitting [~~wireless~~]
8 communications service provider or reseller. General
9 information collected by the board shall be released or
10 published only in aggregate amounts that do not identify or
11 allow identification of numbers of subscribers or revenues
12 attributable to an individual [~~wireless~~] communications service
13 provider.

14 (b) The board, any third parties it may retain, and any
15 public safety answering point shall take appropriate measures to
16 maintain the confidentiality of the proprietary information that
17 may be submitted by a [~~wireless~~] communications service
18 provider. The board shall hold all propriety information in
19 confidence and shall adopt reasonable procedures to prevent
20 disclosure or providing access to the proprietary information to
21 the public and competitors, including members of the board
22 representing other [~~wireless~~] communications service providers.



1 Members of the board shall not disclose the information to any
2 third parties, including their employers, without the written
3 consent of the [~~wireless~~] communications service provider whose
4 proprietary information is to be disclosed.

5 (c) A committee consisting of all board members, except
6 the [~~three wireless~~] communications service provider
7 representatives, shall have the power to act for the board on
8 the specific matters defined by the board, when at least two-
9 thirds of the members of the board determine that a board action
10 may be conducted by the committee to prevent disclosure of
11 proprietary information to the [~~wireless~~] communications service
12 provider representatives.

13 ~~[+]~~ §138-9 ~~[+]~~ **Limitation of liability.** (a)
14 Notwithstanding any law to the contrary, in no event shall any
15 [~~wireless~~] communications service provider, reseller, or their
16 respective employees, directors, officers, assigns, affiliates,
17 or agents, except in cases of gross negligence or wanton and
18 wilful misconduct, be liable for any civil damages or criminal
19 liability resulting from death or injury to a person or from
20 damage to property incurred by any person in connection with any
21 act or omission in developing, designing, adopting,
22 establishing, installing, participating in, implementing,



1 maintaining, or providing access to [~~phase I or phase II~~
2 wireless] enhanced 911 or any other [~~wireless~~] communications
3 service intended to help persons obtain emergency assistance.
4 In addition, no [~~wireless~~] communications service provider,
5 reseller, or their respective employees, directors, officers,
6 assigns, affiliates, or agents shall be liable for civil damages
7 or criminal liability in connection with the release of customer
8 information to any governmental entity, including any public
9 safety answering point, as required under this chapter.

10 (b) In no event shall any public safety answering point,
11 or its employees, assigns, or agents, or emergency response
12 personnel, except in cases of gross negligence or wanton and
13 wilful misconduct, be liable for any civil damages or criminal
14 liability resulting from death or injury to the person or from
15 damage to property incurred by any person in connection with any
16 act or omission in the development, installation, maintenance,
17 operation, or provision of [~~phase I or phase II wireless~~]
18 enhanced 911 service.

19 **[+] §138-10 [+] Database or location information.** (a) Any
20 [~~commercial mobile radio~~] communications service location
21 information obtained by any public safety answering point or



1 public safety agency or its personnel for public safety purposes
2 is not a government record open to disclosure under chapter 92F.

3 (b) A person shall not disclose or use, for any purpose
4 other than the [~~wireless~~] enhanced 911 calling system,
5 information contained in the database of the [~~wireless~~]
6 communications service provider's network portion of the
7 [~~wireless~~] enhanced 911 calling system established pursuant to
8 this chapter, without the prior written consent of the
9 [~~wireless~~] communications service provider.

10 [~~+~~] §138-11 [~~+~~] **Dispute resolution.** (a) Any [~~wireless~~]
11 communications service provider, reseller, or public safety
12 answering point aggrieved by a decision of the board shall have
13 the right to petition the board for reconsideration within ten
14 days following the rendering of the board's decision. As part
15 of its petition for reconsideration, the aggrieved party may
16 present any reasonable evidence or information for the board to
17 consider. The board shall render its decision on the
18 reconsideration petition as soon as reasonably possible, but no
19 later than thirty days after the reconsideration request is
20 made.

21 (b) An aggrieved party, following the completion of the
22 reconsideration petition process, upon agreement of the other



1 party, may have the dispute resolved through final and binding
2 arbitration by a single arbitrator in accordance with the
3 [Wireless] Industry Arbitration Rules of the American
4 Arbitration Association. The costs of the arbitration,
5 including the fees and expenses of the arbitrator, shall be
6 borne by the non prevailing party of any arbitration proceeding.
7 The arbitrator's decision shall be final and binding and may be
8 confirmed and enforced in any court of competent jurisdiction.

9 (c) Nothing in this section shall preclude any [wireless]
10 communications service provider, reseller, or public safety
11 answering point from pursuing any existing right or remedy to
12 which it is entitled in any court having jurisdiction thereof.

13 [+]**§138-12**[+] **Service contracts.** A [wireless]
14 communications service provider shall not be required to provide
15 [wireless] enhanced 911 service until the [wireless]
16 communications service provider and the public safety answering
17 point providing [wireless] enhanced 911 service in the county or
18 counties in which the [wireless] communications service provider
19 is licensed to provide [~~commercial mobile radio~~] communications
20 service have entered into a written agreement setting forth the
21 basic terms of service to be provided."



1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 3. This Act shall take effect January 1, 2020.



Report Title:

Enhanced 911 Services; Surcharge; Fund; Board

Description:

Reduces monthly surcharge on cellular telephone accounts for enhanced 911 service from 66 cents to 46 cents. Imposes monthly surcharge of 46 cents on landline, VoIP, and any other communication service able to contact 911 call center. Repeals provision that surcharge funds are not general funds of the State. Repeals requirement that expenses related to overhead, staffing, and other day-to-day expenses of operating 911 call centers be paid through the general funding of the respective counties. Repeals provision reserving two-thirds of surcharge funds for reimbursement of 911 call centers and one-third for wireless service providers. Renames Wireless Enhanced 911 Board the Enhanced 911 Board. Adds representatives of the Public Utilities Commission, voice over Internet protocol providers, and local exchange carriers to Board. Increases authority of Board to spend surcharge funds not just to reimburse costs of implementing wireless enhanced 911 service but to fund operation of enhanced 911 system generally. Reinstates proxy voting repealed by Act 22, SLH 2008. Prohibits conflicts of interest for third-party accounting firm, consultant, or other third parties hired to perform administrative duties for Board. Effective 1/1/2020. (HB1014 HD2)

