
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 initiates a call to a
9 public safety answering point.

10 "911 system" means an emergency telephone system that:

11 (1) Enables the user of a voice communications service
12 connection such as telephone, computer, or wireless
13 service, or a data communications service connection
14 that transmits data exclusively, such as text
15 messaging, to reach a public safety answering point by
16 dialing 911; and

17 (2) Provides enhanced 911 service.



1 "Automatic location identification" means a wireless
2 enhanced 911 service capability that enables the automatic
3 display of information indicating the approximate geographic
4 location of the wireless telephone used to place a 911 call in
5 accordance with the Federal Communications Commission order.

6 "Automatic number identification" means [~~a wireless~~] an
7 enhanced 911 service capability that enables the automatic
8 display of the ten-digit [~~wireless~~] telephone number [~~used to~~
9 ~~place a 911 call in accordance with the Federal Communications~~
10 ~~Commission order.~~] or some other unique identifier from which a
11 911 call is placed.

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

14 [~~"Commercial mobile radio service" means commercial mobile~~
15 ~~radio service under sections 3(27) and 332(d) of the Federal~~
16 ~~Telecommunications Act of 1996, 47 U.S.C. 151 et seq., and the~~
17 ~~Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, August~~
18 ~~10, 1993, 107 Stat. 312.~~

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



1 ~~"Federal Communications Commission order" means the~~
2 ~~original order issued in the Federal Communications Commission~~
3 ~~Docket No. 94-102 governing wireless enhanced 911 service and~~
4 ~~any other Federal Communication Commission orders related to the~~
5 ~~provision of wireless enhanced 911 service.]~~

6 "Call" means any communication, message, signal, or
7 transmission.

8 "Communication service" means a service capable of
9 accessing, connecting with, or interfacing with a 911 system, by
10 dialing, initializing, or otherwise activating the 911 system by
11 means of a local telephone device, cellular telephone device,
12 wireless communication device, interconnected voice over
13 Internet protocol (VoIP) device, or any other means.

14 "Communications service connection" means each telephone
15 number assigned to a residential or commercial subscriber by a
16 communications service provider, without regard to technology
17 deployed.

18 "Communications service provider" means an entity that
19 provides communications service to a subscriber.

20 "Database service provider" means a service supplier who
21 maintains and supplies or contracts to maintain and supply an



1 automatic information location database or master street address
2 guide.

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

5 "Enhanced 911 service costs" means all capital,
6 nonrecurring, and recurring costs directly related to the
7 implementation, operation, and administration of enhanced 911
8 services.

9 "Prepaid connections" means the sale of a
10 telecommunications service that provides the right to use mobile
11 wireless service, as well as other non-telecommunications
12 services including the download of digital products delivered
13 electronically, content and ancillary services, which is paid
14 for in advance and sold in predetermined units of dollars of
15 which the number of minutes declines with use of the services.

16 "Proprietary information" means customer lists and other
17 related information (including the number of customers),
18 technology descriptions, technical information, or trade
19 secrets, and the actual or developmental costs of [~~wireless~~]
20 enhanced 911 service that are developed, produced, or received
21 internally by a [~~wireless~~] communications service provider or by
22 a provider's employees, directors, officers, or agents.



1 "Public safety agency" means a functional division of the
2 State or county that provides or has authority to provide, or a
3 private entity contracted by a state or county agency that
4 provides, firefighting, law enforcement, ambulance, medical, or
5 other emergency services.

6 "Public safety answering point" means the public safety
7 agency that receives incoming 911 calls and dispatches
8 appropriate public safety agencies to respond to those calls.

9 "Reseller" means a person or entity that purchases
10 [~~commercial mobile radio service~~] communications services from a
11 [~~wireless~~] communications service provider for the purpose of
12 reselling [~~commercial mobile radio service~~] communications
13 services to end-users.

14 [~~"Wireless enhanced 911 commercial mobile radio service~~
15 ~~costs" means all capital, nonrecurring, and recurring costs~~
16 ~~directly related to the implementation and operation of phase I~~
17 ~~or phase II wireless enhanced 911 services pursuant to the~~
18 ~~Federal Communications Commission order.~~

19 "~~Wireless enhanced 911 fund" or "fund" means the statewide~~
20 ~~special fund established to ensure adequate cost recovery for~~
21 ~~the deployment of phase I and phase II wireless enhanced 911~~
22 ~~service in Hawaii.~~



1 ~~"Wireless provider" means a person or entity that is~~
2 ~~authorized by the Federal Communications Commission to provide~~
3 ~~facilities-based commercial mobile radio service within the~~
4 ~~State.]~~

5 "Universal emergency number service" or "911 service" means
6 public communications service that provides service users with
7 the ability to reach a public safety answering point by
8 accessing a 911 system.

9 "VoIP provider" means an entity that provides
10 interconnected VoIP service.

11 ~~[†]§138-2[†]~~ ~~[Wireless enhanced]~~ Enhanced 911 board. (a)

12 There is created within the department of accounting and general
13 services, for administrative purposes, ~~[a wireless]~~ an enhanced
14 911 board consisting of [eleven] fourteen voting members;
15 provided that the membership shall consist of:

- 16 (1) The comptroller or the comptroller's designee;
- 17 (2) Three representatives from the wireless communications
18 service providers, who shall be appointed by the
19 governor as provided in section 26-34~~[, except as~~
20 ~~otherwise provided by law]~~;
- 21 (3) One representative each from the public safety
22 answering points for Oahu, Hawaii, Kauai, Maui, and



- 1 Molokai, who shall be appointed by the governor, as
2 provided in section 26-34, [~~except as otherwise~~
3 ~~provided by law,~~] from a list of five names submitted
4 by each respective public safety answering point;
- 5 (4) The consumer advocate or the consumer advocate's
6 designee; [~~and~~]
- 7 (5) One representative from a VoIP provider, who shall be
8 appointed by the governor as provided in section 26-
9 34;
- 10 (6) One representative from a competitive local exchange
11 carrier or other alternative communications service
12 provider, who shall be appointed by the governor as
13 provided in section 26-34;
- 14 (7) The director or designee of the Hawaii public
15 utilities commission; and
- 16 [~~(5)~~] (8) One representative of the current wireline
17 provider of enhanced 911.
- 18 (b) [~~Six members~~] A simple majority shall constitute a
19 quorum, whose affirmative vote shall be necessary for all
20 actions by the board.



1 (c) The chairperson of the board shall be elected by the
2 members of the board by simple majority and shall serve a term
3 of one year.

4 (d) The board shall meet upon the call of the chairperson,
5 but not less than quarterly.

6 (e) The members representing wireless, VoIP, and CLEC
7 service providers shall be appointed by the governor for terms
8 of two years [~~, except that terms of the two members initially~~
9 ~~appointed shall be for eighteen months~~].

10 (f) Each member shall hold office until the member's
11 successor is appointed and qualified. Section 26-34 shall apply
12 only insofar as it relates to succession, vacancies, and
13 suspension of board members, and as provided in subsection (a).

14 (g) A member may vote by proxy submitted in writing to the
15 board.

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

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



- 1 (1) Create reports, make payments into the fund, process
2 checks, and make distributions from the fund, as
3 directed by the board and as allowed by this chapter;
4 and
- 5 (2) Perform administrative duties necessary to administer
6 the fund or oversee operations of the board, including
7 providing technical advisory support[-]; provided that
8 no third-party accounting firm, consultant, or other
9 third party hired to perform these administrative
10 duties may be retained if the accounting firm,
11 consultant, or other third party, either directly or
12 indirectly, has a conflict of interest or is
13 affiliated with the management of or owns a pecuniary
14 interest in any entity subject to the provisions of
15 this chapter.

16 [~~i~~] (j) The board shall develop reasonable procedures to
17 ensure that all [~~wireless providers~~] members receive adequate
18 notice of board meetings and information concerning board
19 decisions.

20 [~~§138-3~~] [~~Wireless-enhanced~~] Enhanced 911 fund. There
21 is established outside the state treasury a special fund, to be
22 known as the [~~wireless~~] enhanced 911 fund, to be administered by



1 the board. The fund shall consist of amounts collected under
2 section 138-4. [~~Moneys paid into the fund are not general fund~~
3 ~~revenues of the State.~~] The board shall place the funds in an
4 interest-bearing account at any federally insured financial
5 institution, separate and apart from the general fund of the
6 State. Moneys in the fund shall be expended [~~exclusively~~] by
7 the board for the purposes of ensuring adequate [~~cost recovery~~]
8 funding for the deployment and sustainment of [~~phase I and phase~~
9 ~~II wireless~~] enhanced 911 service and for expenses of
10 administering the fund.

11 [~~+~~]**S138-4**[~~+~~] **Surcharge.** (a) A monthly [~~wireless~~]
12 enhanced 911 surcharge, subject to this chapter, shall be
13 imposed upon each [~~commercial mobile radio~~] communications
14 service connection.

15 (b) [~~The effective date of the surcharge shall be July 1,~~
16 ~~2004.~~] The rate of the surcharge shall be set at [~~66~~] __ cents
17 per month for each [~~commercial mobile radio~~] communications
18 service connection. The surcharge shall have uniform
19 application and shall be imposed on each [~~commercial mobile~~
20 ~~radio~~] communications service connection operating within the
21 [~~State~~] state except:



- 1 (1) Connections billed to federal, state, and county
2 government entities; and
- 3 (2) Prepaid connections.
- 4 (c) All [~~wireless~~] communications service providers and
5 resellers shall bill to and collect from each of their customers
6 a monthly surcharge at the rate established for each [~~commercial~~
7 ~~mobile radio~~] communications service connection. The [~~wireless~~]
8 communications service provider or reseller may list the
9 surcharge as a separate line item on each bill. If a [~~wireless~~]
10 communications service provider or reseller receives a partial
11 payment for a monthly bill from a [~~commercial mobile radio~~]
12 communications service customer, the [~~wireless~~] communications
13 service provider or reseller shall apply the payment against the
14 amount the customer owes the [~~wireless~~] communications service
15 provider or reseller, before applying the partial payment
16 against the surcharge.
- 17 (d) A [~~wireless~~] communications service provider that:
- 18 (1) Is collecting the surcharge and remitting appropriate
19 portions of the surcharge to the fund pursuant to this
20 chapter; and



1 (2) Has been requested by a public safety answering point
2 to provide [~~phase I or phase II wireless~~] enhanced 911
3 service in a particular county or counties;
4 may recover [~~wireless~~] enhanced 911 [~~commercial mobile radio~~]
5 service costs as provided in this chapter.

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

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

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

21 (h) Each customer who is subject to this chapter shall be
22 liable to the State for the surcharge until it has been paid to



1 the [~~wireless~~] communications service provider. [~~Wireless~~]
2 Communications service providers shall have no liability to
3 remit surcharges that have not been paid by customers. A
4 [~~wireless~~] communications service provider or reseller shall
5 have no obligation to take any legal action to enforce the
6 collection of the surcharge for which any customer is billed.
7 However, the board may initiate a collection action against the
8 customer. If the board prevails in such a collection action,
9 reasonable attorney's fees and costs shall be awarded.

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

14 (j) When considering whether to discontinue, continue as
15 is, or amend the fund or surcharge, the board's recommendations
16 shall be based on the latest available information concerning
17 costs associated with providing [~~wireless~~] enhanced 911 service
18 [~~in accordance with the Federal Communications Commission~~
19 ~~order~~].

20 [~~+~~]**\$138-5**[~~+~~] [~~Recovery~~] **Disbursements from the fund.** (a)
21 [~~After January 1, 2005, every~~] Every public safety answering
22 point shall be eligible to seek [~~reimbursement~~] disbursements



1 from the fund solely to pay for the reasonable costs to lease,
2 purchase, or maintain all necessary equipment, including
3 computer hardware, software, and database provisioning, required
4 by the public safety answering point to provide technical
5 functionality for the [wireless] enhanced 911 service [pursuant
6 to the Federal Communications Commission order. All other
7 expenses necessary to operate the public safety answering point,
8 including but not limited to those expenses related to overhead,
9 staffing, and other day to day operational expenses, shall
10 continue to be paid through the general funding of the
11 respective counties].

12 (b) [~~After January 1, 2005, each wireless~~] Each
13 communications service provider may request reimbursement from
14 the fund of [wireless] enhanced 911 [~~commercial mobile radio~~]
15 service costs incurred; provided that the costs:

- 16 (1) Are recoverable under section 138-4(d); and
17 (2) Have not already been reimbursed to the [wireless]
18 communications service provider from the fund.

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



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

9 ~~(1) To the total contribution made by the wireless~~
10 ~~provider to the wireless provider cost recovery~~
11 ~~portion of the fund; and~~

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

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

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

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

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

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



- 1 (5) The planned expenditures from the fund in the next
2 fiscal year;
- 3 (6) The amount of any unexpended funds carried forward for
4 the next fiscal year;
- 5 (7) A cost study to guide the legislature towards
6 necessary adjustments to the fund and the monthly
7 surcharge; and
- 8 (8) A progress report of jurisdictional readiness for
9 ~~[wireless E911]~~ enhanced 911 services, including
10 public safety answering points ~~[, wireless providers,]~~
11 and ~~[wireline]~~ communications service providers. ~~[The~~
12 ~~report shall include the status of requirements~~
13 ~~outlined in the Federal Communications Commission~~
14 ~~Order 94-102 and subsequent supporting orders related~~
15 ~~to phase I and phase II wireless 911 services.]~~

16 ~~[†]~~ **§138-7** ~~[†]~~ **Audits.** (a) During any period in which ~~[a~~
17 ~~wireless]~~ an enhanced 911 surcharge is imposed upon customers,
18 the board may request an audited report prepared by an
19 independent certified public accountant that demonstrates that
20 the request for cost recovery from public safety answering
21 points and ~~[wireless]~~ communications service providers recovers
22 only costs and expenses directly related to the provision of



1 ~~[phase I or phase II wireless]~~ enhanced 911 service as
2 authorized by this chapter. The cost of the audited reports
3 shall be considered expenses of the board. The board shall
4 prevent public disclosure of proprietary information contained
5 in the audited report, unless required by court order or
6 appropriate administrative agency decision.

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

15 ~~[†]§138-8[†]~~ **Proprietary information.** (a) All
16 proprietary information submitted to the board by any third
17 party used by the board in connection with its duties or any
18 public safety answering point in deploying ~~[wireless]~~ enhanced
19 911 service shall be retained in confidence. Proprietary
20 information submitted pursuant to this chapter shall not be
21 released to any person, other than to the submitting ~~[wireless]~~
22 communications service provider or reseller, the board, or any



1 independent, third-party accounting firm retained by the board,
2 without the express permission of the submitting [~~wireless~~]
3 communications service provider or reseller. General
4 information collected by the board shall be released or
5 published only in aggregate amounts that do not identify or
6 allow identification of numbers of subscribers or revenues
7 attributable to an individual [~~wireless~~] communications service
8 provider.

9 (b) The board, any third parties it may retain, and any
10 public safety answering point shall take appropriate measures to
11 maintain the confidentiality of the proprietary information that
12 may be submitted by a [~~wireless~~] communications service
13 provider. The board shall hold all propriety information in
14 confidence and shall adopt reasonable procedures to prevent
15 disclosure or providing access to the proprietary information to
16 the public and competitors, including members of the board
17 representing other [~~wireless~~] communications service providers.
18 Members of the board shall not disclose the information to any
19 third parties, including their employers, without the written
20 consent of the [~~wireless~~] communications service provider whose
21 proprietary information is to be disclosed.



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

9 **[+]§138-9[+]** **Limitation of liability.** (a)

10 Notwithstanding any law to the contrary, in no event shall any
11 [~~wireless~~] communications service provider, reseller, or their
12 respective employees, directors, officers, assigns, affiliates,
13 or agents, except in cases of gross negligence or wanton and
14 wilful misconduct, be liable for any civil damages or criminal
15 liability resulting from death or injury to a person or from
16 damage to property incurred by any person in connection with any
17 act or omission in developing, designing, adopting,
18 establishing, installing, participating in, implementing,
19 maintaining, or providing access to [~~phase I or phase II~~
20 ~~wireless~~] enhanced 911 or any other [~~wireless~~] communications
21 service intended to help persons obtain emergency assistance.
22 In addition, no [~~wireless~~] communications service provider,



1 reseller, or their respective employees, directors, officers,
2 assigns, affiliates, or agents shall be liable for civil damages
3 or criminal liability in connection with the release of customer
4 information to any governmental entity, including any public
5 safety answering point, as required under this chapter.

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

15 **[+]§138-10[+] Database or location information.** (a) Any
16 [~~commercial mobile radio~~] communications service location
17 information obtained by any public safety answering point or
18 public safety agency or its personnel for public safety purposes
19 is not a government record open to disclosure under chapter 92F.

20 (b) A person shall not disclose or use, for any purpose
21 other than the [~~wireless~~] enhanced 911 calling system,
22 information contained in the database of the [~~wireless~~]



1 communications service provider's network portion of the
2 [~~wireless~~] enhanced 911 calling system established pursuant to
3 this chapter, without the prior written consent of the
4 [~~wireless~~] communications service provider.

5 [+]§138-11[+] **Dispute resolution.** (a) Any [~~wireless~~]
6 communications service provider, reseller, or public safety
7 answering point aggrieved by a decision of the board shall have
8 the right to petition the board for reconsideration within ten
9 days following the rendering of the board's decision. As part
10 of its petition for reconsideration, the aggrieved party may
11 present any reasonable evidence or information for the board to
12 consider. The board shall render its decision on the
13 reconsideration petition as soon as reasonably possible, but no
14 later than thirty days after the reconsideration request is
15 made.

16 (b) An aggrieved party, following the completion of the
17 reconsideration petition process, upon agreement of the other
18 party, may have the dispute resolved through final and binding
19 arbitration by a single arbitrator in accordance with the
20 [~~wireless~~] Industry Arbitration Rules of the American
21 Arbitration Association. The costs of the arbitration,
22 including the fees and expenses of the arbitrator, shall be



1 borne by the non prevailing party of any arbitration proceeding.
2 The arbitrator's decision shall be final and binding and may be
3 confirmed and enforced in any court of competent jurisdiction.

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

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

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect January 1, 2020.



Report Title:

Enhanced 911 Services; Surcharge; Fund; Board

Description:

Establishes a single entity to administer enhanced 911 services for the state. (HB1014 HD3)

