

---

---

## A BILL FOR AN ACT

RELATING TO WIRELESS ENHANCED 911.

**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           "[+]§138-3[+] **Wireless enhanced 911 fund.** (a) 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.

15           (b) For purposes of this section:

16           "Deployment of phase I and phase II wireless enhanced 911  
17 service" means those actions necessarily taken by the wireless  
18 provider to provide phase I and phase II wireless enhanced 911



1 service upon request of a public safety answering point and by  
2 the public safety answering point to make the service  
3 operational, but does not include actions thereafter taken to  
4 operate the service.

5 "Expenses of administering the fund" means those expenses  
6 necessarily incurred to administer the fund, including  
7 expenditures for reimbursements pursuant to sections 138-2 and  
8 138-5, financial institution fees, and audit expenses incurred  
9 pursuant to section 138-7."

10 SECTION 2. Section 138-4, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) to read as follows:

12 "(a) A monthly wireless enhanced 911 surcharge, subject to  
13 this chapter, [~~shall~~] may be imposed upon each commercial mobile  
14 radio service connection."

15 SECTION 3. Section 138-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) [~~After January 1, 2005, every~~] Every public safety  
18 answering point shall be eligible to seek reimbursement from the  
19 fund solely to pay for the reasonable costs to lease, purchase,  
20 or maintain all necessary equipment, including computer  
21 hardware, software, and database provisioning, required by the  
22 public safety answering point to provide technical functionality



1 for the wireless enhanced 911 service pursuant to the Federal  
2 Communications Commission order. Reimbursements under this  
3 section may supplement but shall not supplant the funds  
4 regularly appropriated for these purposes. All other expenses  
5 necessary to operate the public safety answering point,  
6 including but not limited to those expenses related to overhead,  
7 staffing, and other day-to-day operational expenses, shall  
8 continue to be paid through the general funding of the  
9 respective counties. For the purposes of this subsection,  
10 "operational expenses" include any charges for ongoing service  
11 provided by the local exchange carrier."

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

14 "~~+~~ §138-6 ~~+~~ **Report to the legislature.** The board shall  
15 submit an annual report to the legislature~~-7~~ no later than  
16 twenty days prior to the convening of each regular session of  
17 the legislature, beginning with the 2010 regular session,  
18 including:

- 19 (1) The total aggregate surcharge collected by the State  
20 in the last fiscal year;
- 21 (2) The amount of disbursement from the fund;



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



1 SECTION 5. (a) The auditor shall conduct a financial and  
2 management audit of the wireless enhanced 911 fund to address  
3 the following issues:

4 (1) Whether expenditures from the wireless enhanced 911  
5 fund by the wireless enhanced 911 board should be  
6 subject to legislative appropriation in the same  
7 manner as required by section 346-51.5, Hawaii Revised  
8 Statutes; and

9 (2) Recommendations for other forms of legislative  
10 oversight of the wireless enhanced 911 board or other  
11 means of ensuring the board is accountable for its  
12 actions.

13 (b) Beginning 2014 and every five years thereafter as long  
14 as the wireless enhanced 911 fund remains in existence, the  
15 auditor shall submit a review of the fund. The review shall  
16 include but not be limited to the criteria set forth in section  
17 37-52.3, Hawaii Revised Statutes, for the establishment and  
18 continuance of special funds. The auditor shall submit a report  
19 of its review to the legislature no later than twenty days prior  
20 to the convening of the regular session following each year in  
21 which the review is required to be performed.



1           SECTION 6. In the annual report to be submitted to the  
2 legislature prior to the 2010 regular session pursuant to  
3 section 138-6, Hawaii Revised Statutes, the wireless enhanced  
4 911 board shall explain, with reference to specific statutory  
5 provisions, under what authority it proposes to expend "the  
6 existing balance" of the wireless enhanced 911 fund "for  
7 projects to expand coverage in rural areas and in-building  
8 coverage, and other future technologies not yet identified," as  
9 stated in the board's annual report to the legislature submitted  
10 prior to the 2008 regular session. The wireless enhanced 911  
11 board shall also explain whether a private or public entity will  
12 acquire the property necessary for the proposed projects,  
13 whether the property will be acquired and held pursuant to lease  
14 or purchase, how the expense of construction, operation, and  
15 maintenance will be funded, and what entity will bear liability  
16 for any damages or loss incurred in connection with the  
17 construction, operation, and maintenance of the project.

18           SECTION 7. The wireless enhanced 911 board shall not  
19 expend the one-third of the balance of the wireless enhanced 911  
20 fund, remaining after payment of expenses of administering the  
21 fund, that is made available for wireless provider cost recovery  
22 pursuant to section 138-5(c), Hawaii Revised Statutes, other



1 than for reimbursement of costs allowed to be recovered by  
2 wireless service providers pursuant to section 138-4(d), Hawaii  
3 Revised Statutes.

4 SECTION 8. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Cindy Evans*

JAN 22 2009



**Report Title:**

Wireless Enhanced 911; Surcharge

**Description:**

Fund prior to the 2009 regular session and review every 5 years thereafter. Adds definitions and places limits on expenditures from the fund. Makes surcharge permissible, rather than required. Requires the 2009 annual report of the wireless enhanced 911 board to explain authority for certain expenditures proposed by its 2009 annual report.

