



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

S.B. NO. 2695, S.D. 1, RELATING TO NON-GENERAL FUNDS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 17, 2010 **TIME:** 3:00 PM

LOCATION: State Capitol, Room 308

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Patricia Ohara, Deputy Attorney General

LATE TESTIMONY

Chair Oshiro and Members of the Committee:

The Department of the Attorney General has concerns about section 2 of this bill, which authorizes the Director of Finance to transfer an unspecified sum from the wireless enhanced 911 fund to the general fund. The New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, provides that nothing in this act shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services specifically designated by a state, "provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge." We believe that this federal law would appear to prevent any transfer of funds from the 911 fund to the general fund. The 911 fees are authorized by section 138-4, Hawaii Revised Statutes for the intended purpose of the 911 fund, and under the federal law, it appears that the 911 funds may not be diverted to other purposes that are not authorized by the state statute or regulation establishing those fees. (Pub. L. No. 110-283, 122 Stat. 2622 (2008))

We believe that the express limitation in the federal law appears to preclude any transfer of funds from the wireless enhanced 911 fund to the general fund and noncompliance could result in the

forfeiture of current federal grants, denial of future federal grants, and possible penalties and fines. However, this is our preliminary reading of the federal law and, if the Committee wishes, we would be happy to research this matter further.