



GOV. MSG. NO. 1272

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 27, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 27, 2011, the following bill was signed into law:

HB1000 HD2 SD2 CD1

RELATING TO ENHANCED 911 SERVICES
Act 168 (11)

Aloha
Sincerely,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

on JUN 27 2011

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 168
H.B. NO. 1000
H.D. 2
S.D. 2
C.D. 1

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 coordinator" means the person designated to carry out
11 the responsibilities of coordinating 911 services as required in
12 Section 3(b) of the Wireless Communications and Public Safety
13 Act of 1999.

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

18 "911 system" means an emergency communications system that:



1 (1) Enables the user of a voice communications service
2 connection such as telephone, computer, or commercial
3 mobile radio service, Interconnected Voice over
4 Internet Protocol service or a data communications
5 service connection that transmits data exclusively,
6 such as text messaging, to reach a public safety
7 answering point by accessing 911, or via a
8 service/relay bureau or accessing a 911 system through
9 some other means; and

10 (2) Provides enhanced 911 service.

11 "Automatic location identification" means [~~a wireless~~] an
12 enhanced 911 service capability that enables the automatic
13 display of information indicating the address or approximate
14 geographic location of the [~~wireless telephone~~] communication
15 device used to place a 911 call [~~in accordance with the Federal~~
16 ~~Communications Commission Order~~].

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



1 "Board" means the [wireless] enhanced 911 board established
2 under this chapter.

3 "Call" means any communication, message, signal, or
4 transmission.

5 "Commercial mobile radio service" means commercial mobile
6 radio service under Sections 3(27) and 332(d) of the Federal
7 Telecommunications Act of 1996, Title 47 [U.S.C.] United States
8 Code Section 151 et seq., and the Omnibus Budget Reconciliation
9 Act of 1993, [P.L.] Public Law 103-66, August 10, 1993, 107
10 Stat. 312.

11 "Commercial mobile radio service connection" means each
12 active wireless telephone number assigned to a commercial mobile
13 radio service customer, including end-users of resellers whose
14 place of primary use is within the State.

15 [~~"Federal Communications Commission order" means the~~
16 ~~original order issued in the Federal Communications Commission~~
17 ~~Docket No. 94-102 governing wireless enhanced 911 service and~~
18 ~~any other Federal [Communications] Commission orders related to~~
19 ~~the provision of wireless enhanced 911 service.~~]

20 "Communications service" means a service capable of
21 accessing, connecting with, or interfacing with a 911 system, by
22 dialing, initializing, or otherwise activating the 911 system by



1 means of a local telephone device, commercial mobile radio
2 service device, Interconnected Voice over Internet Protocol
3 device, indirect communication through a service bureau or call
4 relay service, such as alarm companies, or any other means.

5 "Communications service connection" means each telephone
6 number or a device's unique identifier assigned to a residential
7 or commercial subscriber by a communications service provider,
8 without regard to technology deployed.

9 "Communications service provider" means an entity that
10 provides communications service to a subscriber.

11 "Database service provider" means a service supplier who
12 maintains and supplies or contracts to maintain and supply an
13 automatic information location database or master street address
14 guide.

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

17 "Enhanced 911 service costs" means all capital,
18 nonrecurring, and recurring costs directly related to the
19 implementation, operation, and administration of enhanced 911
20 services.

21 "Interconnected Voice over Internet Protocol" means a
22 service that:



- 1 (1) Enables real-time, two-way voice communications;
2 (2) Requires a broadband connection from the user's
3 location;
4 (3) Requires internet protocol-compatible customer
5 premises equipment; and
6 (4) Permits users generally to receive calls that
7 originate on the public switched telephone network and
8 to terminate calls to the public switched telephone
9 network.

10 "Interconnected Voice over Internet Protocol service
11 provider" means an entity that provides Interconnected Voice
12 over Internet Protocol service.

13 "Prepaid connection" means the sale of a communications
14 service that is paid for in advance or sold in predetermined
15 units of which the number of units declines with use of the
16 services.

17 "Proprietary information" means customer lists and other
18 related information (including the number of customers),
19 technology descriptions, technical information, or trade
20 secrets, and the actual or developmental costs of [wireless]
21 enhanced 911 service that are developed, produced, or received



1 internally by a [~~wireless~~] communications service provider or by
2 a provider's employees, directors, officers, or agents.

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

9 "Public safety answering point" means the public safety
10 agency that receives incoming 911 calls and dispatches
11 appropriate public safety agencies to respond to those calls.

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

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



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

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

9 ~~{[§138-2[~~Wireless enhanced~~]~~ Enhanced 911 board. (a)

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

14 (1) The comptroller or the comptroller's designee;

15 (2) Three representatives from wireless communications
16 service providers, who shall be appointed by the
17 governor as provided in section 26-34[~~, except as~~
18 ~~otherwise provided by law~~];

19 (3) One representative each from the public safety
20 answering points for Oahu, Hawaii, Kauai, Maui, and
21 Molokai[~~, who shall be appointed by the governor,~~] and
22 one representative, chosen by the mayor of the city



1 and county of Honolulu, who shall be appointed by the
2 governor as provided in section 26-34 [~~except as~~
3 ~~otherwise provided by law, from a list of five names~~
4 ~~submitted by each respective public safety answering~~
5 ~~point~~];

6 (4) The consumer advocate or the consumer advocate's
7 designee; [~~and~~]

8 (5) One representative from a communications service
9 company that offers Interconnected Voice over Internet
10 Protocol services, who shall be appointed by the
11 governor as provided in section 26-34; and

12 [~~(5)~~] (6) One representative of the [current wireline
13 provider of enhanced 911.] public utility providing
14 telecommunications services and land line enhanced 911
15 services through section 269-16.95.

16 (b) [~~Six members~~] A simple majority shall constitute a
17 quorum, whose affirmative vote shall be necessary for all
18 actions by the board.

19 (c) The chairperson of the board shall be elected by the
20 members of the board by simple majority and shall serve a term
21 of one year.



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

3 (e) The members representing wireless providers, the
4 public utility providing telecommunications services and land
5 line enhanced 911 services through section 269-16.95, and
6 Interconnected Voice over Internet Protocol service providers
7 shall be appointed by the governor for terms of two years[~~7~~
8 ~~except that terms of the two members initially appointed shall~~
9 ~~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) The board may adopt rules under chapter 91 as
15 necessary to carry out the purposes of this chapter.

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. The board shall place the funds in an interest-
3 bearing account at any federally insured financial institution,
4 separate and apart from the general fund of the State. Moneys
5 in the fund shall be expended exclusively by the board for the
6 purposes of ensuring adequate ~~[cost recovery for the deployment,~~
7 ~~of phase I and phase II wireless]~~ funding to deploy and sustain
8 enhanced 911 service, developing and funding future enhanced 911
9 technologies, and [for] funding expenses of administering the
10 fund. ~~[Any funds that accumulate in the wireless enhanced 911~~
11 ~~fund shall be retained in the fund unless determined by the~~
12 ~~legislature to be in excess.~~

13 ~~f]~~**§138-4[+]** **Surcharge.** (a) A monthly ~~[wireless]~~ enhanced
14 911 surcharge, subject to this chapter, shall be imposed upon
15 each ~~[commercial mobile radio]~~ communications service
16 connection[-], except connections of the public utility
17 providing telecommunications services and land line enhanced 911
18 services through section 269-16.95.

19 (b) ~~[The effective date of the surcharge shall be July 1,~~
20 ~~2004-]~~ The rate of the surcharge shall be set at 66 cents per
21 month for each ~~[commercial mobile radio]~~ communications service
22 connection. The surcharge shall have uniform application and



1 shall be imposed on each [~~commercial mobile radio~~]
2 communications service connection operating within the State
3 except:

- 4 (1) Connections billed to federal, state, and county
5 governmental entities; [~~and~~]
6 (2) Prepaid connections [~~-~~]; and
7 (3) Connections provided by the public utility providing
8 telecommunications services and land line enhanced 911
9 services through section 269-16.95.

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



1 (d) A [~~wireless~~] communications service provider that:
2 (1) Is collecting the surcharge and remitting appropriate
3 portions of the surcharge to the fund pursuant to this
4 chapter; and
5 (2) Has been requested by a public safety answering point
6 to provide [~~phase I or phase II wireless~~] enhanced 911
7 service in a particular county or counties,
8 may recover [~~wireless~~] enhanced 911 [~~commercial mobile radio~~]
9 service costs as provided in this chapter.

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

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

21 (g) A public utility providing telecommunications services
22 and land line enhanced 911 services for its customer base and



1 other service providers using the wire line provider's enhanced
2 911 service may collect and retain the surcharge at the
3 established rate set forth in section 269-16.95.

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

9 [~~h~~] (i) Each customer who is subject to this chapter
10 shall be liable to the State for the surcharge until it has been
11 paid to the [wireless] communications service provider.

12 [Wireless] Communications service providers shall have no
13 liability to remit surcharges that have not been paid by
14 customers. A [wireless] communications service provider or
15 reseller shall have no obligation to take any legal action to
16 enforce the collection of the surcharge for which any customer
17 is billed. However, the board may initiate a collection action
18 against the customer. If the board prevails in such a
19 collection action, reasonable attorney's fees and costs shall be
20 awarded.

21 [~~i~~] (j) At any time the members deem it necessary and
22 appropriate, the board may meet to make recommendations to the



1 legislature as to whether the surcharge and fund should be
2 discontinued, continued as is, or amended.

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

9 ~~[(f)]~~ §138-5 ~~Recovery~~ Disbursements from the fund. (a)
10 ~~[After January 1, 2005, every]~~ Every public safety answering
11 point shall be eligible to seek ~~[reimbursement]~~ disbursements
12 from the fund ~~[solely]~~ to pay for the reasonable costs to lease,
13 purchase, or maintain all necessary equipment, including
14 computer hardware, software, and database provisioning, required
15 by the public safety answering point to provide technical
16 functionality for the ~~[wireless] enhanced 911 service [pursuant~~
17 ~~to the Federal Communications Commission order].~~ Reasonable
18 costs may include expenses directly associated with the planning
19 phases and training of personnel in any new and emerging
20 technologies involving enhanced 911. All other expenses
21 necessary to operate the public safety answering point,
22 including but not limited to those expenses related to overhead,



1 staffing, and other day-to-day operational expenses, shall
2 continue to be paid through the general funding of the
3 respective counties.

4 (b) Every public safety answering point shall be eligible
5 to seek disbursements from the fund to pay for the reasonable
6 costs associated with having representatives, other than board
7 members, on board committees, including established and
8 investigative committees.

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

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

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

20 (d) Every communications service provider may seek
21 disbursements from the fund to pay for the reasonable costs
22 associated with having representatives, other than board



1 members, on board committees, including established and
2 investigative committees.

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

12 (1) To one-third of the total contribution made by the
13 ~~[wireless]~~ individual communications service provider
14 ~~[to the wireless provider cost recovery portion of]~~
15 into the fund; provided that this method of direct
16 reimbursement shall not be available to the provider
17 of wire line enhanced 911; and

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

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~~] status report of jurisdictional
14 [~~readiness~~] capabilities for [~~wireless E911~~] enhanced
15 911 services, including public safety answering
16 points[, ~~wireless providers,~~] and [~~wireline~~]
17 communications service providers. [~~The report shall~~
18 ~~include the status of requirements outlined in the~~
19 ~~Federal Communications Commission Order 94 102 and~~
20 ~~subsequent supporting orders related to phase I and~~
21 ~~phase II wireless 911 services.~~



1 ~~§~~138-7 Audits. ~~(a)~~ (a) During any period in which [a
2 wireless] an enhanced 911 surcharge is imposed upon customers,
3 the board may request an audited report prepared by an
4 independent certified public accountant that demonstrates that
5 the request for cost recovery from public safety answering
6 points and [wireless] communications service providers recovers
7 only costs and expenses directly related to the provision of
8 [~~phase I or phase II wireless~~] enhanced 911 service as
9 authorized by this chapter. The cost of the audited reports
10 shall be considered expenses of the board. The board shall
11 prevent public disclosure of proprietary information contained
12 in the audited report, unless required by court order or
13 appropriate administrative agency decision.

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



1 [+]§138-8[+] Proprietary information. (a) All
2 proprietary information submitted to the board by any third
3 party used by the board in connection with its duties or any
4 public safety answering point in deploying [~~wireless~~] enhanced
5 911 service shall be retained in confidence. Proprietary
6 information submitted pursuant to this chapter shall not be
7 released to any person, other than to the submitting [~~wireless~~]
8 communications service provider or reseller, the board, or any
9 independent, third-party accounting firm retained by the board,
10 without the express permission of the submitting [~~wireless~~]
11 communications service provider or reseller. General
12 information collected by the board shall be released or
13 published only in aggregate amounts that do not identify or
14 allow identification of numbers of subscribers or revenues
15 attributable to an individual [~~wireless~~] communications service
16 provider.

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



1 disclosure or providing access to the proprietary information to
2 the public and competitors, including members of the board
3 representing other [~~wireless~~] communications service providers.
4 Members of the board shall not disclose the information to any
5 third parties, including their employers, without the written
6 consent of the [~~wireless~~] communications service provider whose
7 proprietary information is to be disclosed.

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

16 ~~§~~ **§138-9** **Limitation of liability.** (a)

17 Notwithstanding any law to the contrary, in no event shall any
18 [~~wireless~~] communications service provider, reseller,
19 independent, third-party accounting firms, consultants, or other
20 third party retained by the State under section 138-2, or their
21 respective employees, directors, officers, assigns, affiliates,
22 or agents, except in cases of gross negligence or wanton and



1 wilful misconduct, be liable for any civil damages or criminal
2 liability resulting from death or injury to a person or from
3 damage to property incurred by any person in connection with any
4 act or omission in developing, designing, adopting,
5 establishing, installing, participating in, implementing,
6 maintaining, or providing access to [~~phase I or phase II~~
7 wireless] enhanced 911 or any other [~~wireless~~] communications
8 service intended to help persons obtain emergency assistance.
9 In addition, no [~~wireless~~] communications service provider,
10 reseller, independent, third-party accounting firms,
11 consultants, or other third party retained by the State under
12 section 138-2, or their respective employees, directors,
13 officers, assigns, affiliates, or agents shall be liable for
14 civil damages or criminal liability in connection with the
15 release of customer information to any governmental entity,
16 including any public safety answering point, as required under
17 this chapter.

18 (b) In no event shall any public safety answering point,
19 or its employees, assigns, or agents, or emergency response
20 personnel, except in cases of gross negligence or wanton and
21 wilful misconduct, be liable for any civil damages or criminal
22 liability resulting from death or injury to the person or from



1 damage to property incurred by any person in connection with any
2 act or omission in the development, installation, maintenance,
3 operation, or provision of [~~phase I or phase II wireless~~]
4 enhanced 911 service.

5 [+]§138-10[+] **Database or location information.** (a) Any
6 [~~commercial mobile radio~~] communications service location
7 information obtained by any public safety answering point or
8 public safety agency or its personnel for public safety purposes
9 is not a government record open to disclosure under chapter 92F.

10 (b) A person shall not disclose or use, for any purpose
11 other than the [~~wireless~~] enhanced 911 calling system,
12 information contained in the database of the [~~wireless~~]
13 communications service provider's network portion of the
14 [~~wireless~~] enhanced 911 calling system established pursuant to
15 this chapter, without the prior written consent of the
16 [~~wireless~~] communications service provider.

17 [+]§138-11[+] **Dispute resolution.** (a) Any [~~wireless~~]
18 communications service provider, reseller, independent, third-
19 party accounting firms, consultants, or other third party
20 retained by the State under section 138-2, or public safety
21 answering point aggrieved by a decision of the board shall have
22 the right to petition the board for reconsideration within ten



1 days following the rendering of the board's decision. As part
2 of its petition for reconsideration, the aggrieved party may
3 present any reasonable evidence or information for the board to
4 consider. The board shall render its decision on the
5 reconsideration petition as soon as reasonably possible, but no
6 later than thirty days after the reconsideration request is
7 made.

8 (b) An aggrieved party, following the completion of the
9 reconsideration petition process, upon agreement of the other
10 party, may have the dispute resolved through final and binding
11 arbitration by a single arbitrator in accordance with the
12 [Wireless] Industry Arbitration Rules of the American
13 Arbitration Association. The costs of the arbitration,
14 including the fees and expenses of the arbitrator, shall be
15 borne by the nonprevailing party of any arbitration proceeding.
16 The arbitrator's decision shall be final and binding and may be
17 confirmed and enforced in any court of competent jurisdiction.

18 (c) Nothing in this section shall preclude any [wireless]
19 communications service provider, reseller, independent, third-
20 party accounting firms, consultants, or other third party
21 retained by the State under section 138-2, or public safety



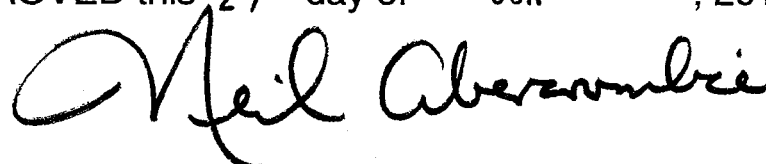
1 answering point from pursuing any existing right or remedy to
2 which it is entitled in any court having jurisdiction thereof.

3 ~~[+]§138-12[+]~~ **Service contracts.** A [wireless]
4 communications service provider shall not be required to provide
5 [wireless] enhanced 911 service until the [wireless]
6 communications service provider and the public safety answering
7 point providing [wireless] enhanced 911 service in the county or
8 counties in which the [wireless] communications service provider
9 is licensed to provide [~~commercial mobile radio~~] communications
10 service have entered into a written agreement setting forth the
11 basic terms of service to be provided."

12 SECTION 2. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 3. This Act shall take effect on July 1, 2011.

APPROVED this 27 day of JUN, 2011



GOVERNOR OF THE STATE OF HAWAII

