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JAN 26 2011

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## 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       "9-1-1 Coordinator" means the person designated to carry  
11 out the responsibilities of coordinating 9-1-1 services as  
12 required in Section 3(b) of Wireless Telecommunications Act of  
13 1999.

14       "911 system" means an emergency communications system that:

15       (1) Enables the user of a voice communications service  
16 connection such as telephone, computer, or commercial  
17 mobile radio service, Interconnected Voice over

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1 Internet Protocol service or a data communications  
2 service connection that transmits data exclusively,  
3 such as text messaging, to reach a public safety  
4 answering point by accessing 911, or via a  
5 service/relay bureau or accessing a 911 system through  
6 some other means ; and

7 (2) Provides enhanced 911 service.

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

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

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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, 47 U.S.C. 151 et seq., and the  
8 Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, August  
9 10, 1993, 107 Stat. 312.

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

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

19 "Communication service" means a service capable of  
20 accessing, connecting with, or interfacing with a 911 system, by

1 dialing, initializing, or otherwise activating the 911 system by  
2 means of a local telephone device, commercial mobile radio  
3 service device, interconnected voice over Internet protocol  
4 (VoIP) device, indirect communication through a service bureau  
5 or call relay service, such as alarm companies or telematic  
6 providers, or any other means.

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

11 "Communications service provider" means an entity that  
12 provides communications service to a subscriber.

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

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

19 "Enhanced 911 service costs" means all capital,  
20 nonrecurring, and recurring costs directly related to the

1 implementation, operation, and administration of enhanced 911  
2 services.

3 "Interconnected voice over Internet protocol Voice over  
4 Internet Protocol" means a service that: (1) enables real-time,  
5 two-way voice communications; (2) requires a broadband  
6 connection from the user's location; (3) requires Internet  
7 protocol-compatible customer premises equipment; and (4) permits  
8 users generally to receive calls that originate on the public  
9 switched telephone network and to terminate calls to the public  
10 switched telephone network.

11 "Interconnected Voice over Internet Protocol service  
12 provider" means an entity that provides interconnected voice  
13 over Internet protocol service.

14 "Competitive Local Exchange Carrier" means a alternative  
15 provider of local communication services other than the  
16 Incumbent Local Exchange Carrier.

17 "Prepaid connections" means the sale of a communications  
18 service that is paid for in advance or sold in predetermined  
19 units of which the number of units declines with use of the  
20 services.

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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~~] a governmental entity that provides or has  
10 authority to provide, or a private entity contracted by a [State  
11 or county] governmental entity that provides, firefighting, law  
12 enforcement, ambulance, medical, or 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.

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1       ~~["Wireless enhanced 911 commercial mobile radio service~~  
2 ~~costs" means all capital, nonrecurring, and recurring costs~~  
3 ~~directly related to the implementation and operation of phase I~~  
4 ~~or phase II wireless enhanced 911 services pursuant to the~~  
5 ~~Federal Communications Commission order.~~

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

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

14       "Telematics" means the blending of computers and wireless  
15 telecommunications technologies, associated with a motor vehicle  
16 that conveys data associated with events related to said vehicle  
17 to a call center or Public Service Answering Point.

18       "Universal emergency number service" or "911 service" means  
19 public communications service that provides service users with

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1 the ability to reach a public safety answering point by  
2 accessing a 911 system.

3 ~~[f]~~§138-2~~[j]~~ ~~[Wireless enhanced]~~ **Enhanced 911 board.** (a)

4 There is created within the department of accounting and general  
5 services, for administrative purposes, ~~[a wireless]~~ an enhanced  
6 911 board consisting of ~~[eleven]~~ Thirteen voting members;  
7 provided that the membership shall consist of:

- 8 (1) The comptroller or the comptroller's designee;
- 9 (2) Three representatives from the wireless communications  
10 service providers, who shall be appointed by the  
11 governor as provided in section 26-34~~[, except as~~  
12 otherwise provided by law];
- 13 (3) ~~[One representative]~~ Each ~~[from the]~~ county public  
14 safety answering point will be represented by one (1)  
15 employee or manager, with the exception of  
16 Oahu, ~~[Hawaii, Kauai, Maui, and Molokai]~~ with two (2)  
17 individuals, whose first representative will be an  
18 employee or manager from the Oahu primary Primary  
19 Service Answering Point, and a second representative,  
20 chosen by the mayor of the city and county of



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1            Honolulu, 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 communications service  
8            company that offers interconnected Voice over Internet  
9            Protocol services, who shall be appointed by the  
10           governor as provided in section 26-34; and

11           [~~5~~] (6) One representative of the current local exchange  
12           carrier.

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

16           (c) The chairperson of the board shall be elected by the  
17           members of the board by simple majority and shall serve a term  
18           of one year.

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

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1 (e) The members representing wireless, local exchange  
2 carrier, and Interconnected Voice over Internet Protocol  
3 service providers shall be appointed by the governor for terms  
4 of two years[, ~~except that terms of the two members initially~~  
5 ~~appointed shall be for eighteen months~~].

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

10 (g) The board has the authority to adopt, administer, and  
11 enforce rules to carry out the purposes of this chapter.

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

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

19 (1) Create reports, make payments into the fund, process  
20 checks, and make distributions from the fund, as

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1 directed by the board and as allowed by this chapter;

2 and

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

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

18 (k) The board shall fund the development, deployment, and  
19 sustaining of enhanced 911 service, including funding future  
20 Enhanced 911 technologies.

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1        (1) The Governor will appoint and designate the state 9-1-  
2 1 coordinator as required by section 3(b) of the federal  
3 Wireless Telecommunications and Public Safety Act of 1999 who  
4 will coordinate with the board on matters related to 9-1-1  
5 services

6        (1) The state 9-1-1 coordinator shall serve without  
7 compensation from the fund. The state 9-1-1  
8 coordinator shall be entitled to reimbursements from  
9 the fund for reasonable traveling expenses incurred in  
10 connection with the performance of board duties.

11        [~~+~~]\$138-3[~~+~~] ~~Wireless enhanced~~ Enhanced 911 fund. There  
12 is established outside the state treasury a special fund, to be  
13 known as the [~~wireless~~] enhanced 911 fund, to be administered by  
14 the board. The fund shall consist of amounts collected under  
15 section 138-4. Moneys paid into the fund are not general fund  
16 revenues of the State. The board shall place the funds in an  
17 interest-bearing account at any federally insured financial  
18 institution, separate and apart from the general fund of the  
19 State. Moneys in the fund shall be expended exclusively by the  
20 board for the purposes of ensuring adequate [~~cost recovery for~~

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1 ~~the deployment, of phase I and phase II wireless]~~ for funding to  
2 deploy and sustain enhanced 911 service and develop and fund  
3 future enhanced 911 technologies and for expenses of  
4 administering the fund. [~~Any funds that accumulate in the~~  
5 ~~wireless enhanced 911 fund shall be retained in the fund unless~~  
6 ~~determined by the legislature to be in excess.~~]

7       [+]§138-4[+] **Surcharge** (a) A monthly [~~wireless~~] enhanced  
8 911 surcharge, subject to this chapter, shall be imposed upon  
9 each [~~commercial mobile radio~~] communications service  
10 connection.

11       (b) [~~The effective date of the surcharge shall be July 1,~~  
12 ~~2004.~~] The rate of the surcharge shall be set at 66 cents per  
13 month for each [~~commercial mobile radio~~] communications service  
14 connection. The surcharge shall have uniform application and  
15 shall be imposed on each [~~commercial mobile radio~~]  
16 communications service connection operating within the State  
17 except:

- 18       (1) Connections billed to federal, state, and county  
19 governmental entities; [~~and~~]  
20       (2) Prepaid connections [~~-~~] ; or

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1       (3) Local exchange carrier providing land line enhanced  
2             911 services through section 269-16.95.

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

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

17       (1) Is collecting the surcharge and remitting appropriate  
18 portions of the surcharge to the fund pursuant to this  
19 chapter; and

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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 [~~7~~] ;  
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) A Public Utility providing local exchange enhanced 911  
18 communication services for its customer base and other service  
19 providers using the wire line provider's enhanced 911 service may

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1 collect and keep the surcharge at the established rate set forth  
2 by section 269-16.95.

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

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

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

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



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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, continue  
4 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~~[(j)]~~ **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].~~ This may  
18 include any 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

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1 necessary to operate the public safety answering point,  
2 including but not limited to those expenses related to overhead,  
3 staffing, and other day-to-day operational expenses, shall  
4 continue to be paid through the general funding of the  
5 respective counties.

6 (b) Every public safety answering point shall be eligible  
7 to seek disbursements from the fund to pay for the reasonable  
8 costs associated with having representatives, other than  
9 enhanced 911 board members, on enhanced 911 board committees to  
10 include, established and investigative committees.

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

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

18 In no event shall a [~~wireless~~] communications service provider  
19 be reimbursed for any amount above its actual [~~wireless~~]

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1 enhanced 911 [~~commercial mobile radio~~] communications service  
2 costs allowed to be recovered under section 138-4(d).

3 (d) Every communications service provider shall be  
4 eligible to seek disbursements from the fund to pay for the  
5 reasonable costs associated with having representatives, other  
6 than board members, on board committees to including,  
7 established and investigative committees.

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

17 (1) To one third of the total contribution made by the  
18 [~~wireless~~] individual communications service provider  
19 [~~to the wireless provider cost recovery portion of~~]  
20 into the fund[+]. This method of direct reimbursement

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1           is not available to the provider of wire line enhanced  
2           911; and

3           (2) As provided in section 138-5[(b)](c).

4           [+]§138-6[+] **Report to the legislature.** The board shall  
5 submit an annual report to the legislature, including:

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

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

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

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

13           (5) The planned expenditures from the fund in the next  
14           fiscal year;

15           (6) The amount of any unexpended funds carried forward for  
16           the next fiscal year;

17           (7) A cost study to guide the legislature towards  
18           necessary adjustments to the fund and the monthly  
19           surcharge; and

1 (8) A [~~progress~~] status report of jurisdictional  
2 capabilities for [~~wireless E911~~] enhanced 911  
3 services, including public safety answering points[~~r~~  
4 ~~wireless providers,~~] and [~~wireline~~] communications  
5 service providers. [~~The report shall include the~~  
6 ~~status of requirements outlined in the Federal~~  
7 ~~Communications Commission Order 94-102 and subsequent~~  
8 ~~supporting orders related to phase I and phase II~~  
9 ~~wireless 911 services.~~]

10 [~~+~~]**\$138-7 Audits.**[~~+~~] (a) During any period in which [~~a~~  
11 ~~wireless~~] an enhanced 911 surcharge is imposed upon customers,  
12 the board may request an audited report prepared by an  
13 independent certified public accountant that demonstrates that  
14 the request for cost recovery from public safety answering  
15 points and [~~wireless~~] communications service providers recovers  
16 only costs and expenses directly related to the provision of  
17 [~~phase I or phase II wireless~~] enhanced 911 service as  
18 authorized by this chapter. The cost of the audited reports  
19 shall be considered expenses of the board. The board shall  
20 prevent public disclosure of proprietary information contained

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1 in the audited report, unless required by court order or  
2 appropriate administrative agency decision.

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

11 [~~+~~]**\$138-8**[~~+~~] **Proprietary information.** (a) All  
12 proprietary information submitted to the board by any third  
13 party used by the board in connection with its duties or any  
14 public safety answering point in deploying [~~wireless~~] enhanced  
15 911 service shall be retained in confidence. Proprietary  
16 information submitted pursuant to this chapter shall not be  
17 released to any person, other than to the submitting [~~wireless~~]  
18 communications service provider or reseller, the board, or any  
19 independent, third-party accounting firm retained by the board,  
20 without the express permission of the submitting [~~wireless~~]

1 communications service provider or reseller. General  
2 information collected by the board shall be released or  
3 published only in aggregate amounts that do not identify or  
4 allow identification of numbers of subscribers or revenues  
5 attributable to an individual [~~wireless~~] communications service  
6 provider.

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

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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,  
12 independent, third-party accounting firms, consultants, or other  
13 third party retained by the State under section 138-2(i), or  
14 their respective employees, directors, officers, assigns,  
15 affiliates, or agents, except in cases of gross negligence or  
16 wanton and willful misconduct, be liable for any civil damages  
17 or criminal liability resulting from death or injury to a person  
18 or from damage to property incurred by any person in connection  
19 with any act or omission in developing, designing, adopting,  
20 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, independent, third-party accounting firms,  
6 consultants, or other third party retained by the State under  
7 section 138-2(i), or their respective employees, directors,  
8 officers, assigns, affiliates, or agents shall be liable for  
9 civil damages or criminal liability in connection with the  
10 release of customer information to any governmental entity,  
11 including any public safety answering point, as required under  
12 this chapter.

13 (b) In no event shall any public safety answering point,  
14 or its employees, assigns, or agents, or emergency response  
15 personnel, except in cases of gross negligence or wanton and  
16 willful misconduct, be liable for any civil damages or criminal  
17 liability resulting from death or injury to the person or from  
18 damage to property incurred by any person in connection with any  
19 act or omission in the development, installation, maintenance,

1 operation, or provision of [~~phase I or phase II wireless~~]  
2 enhanced 911 service.

3       [+]§138-10[+] **Database or location information.** (a) Any  
4 [~~commercial mobile radio~~] communications service location  
5 information obtained by any public safety answering point or  
6 public safety agency or its personnel for public safety purposes  
7 is not a government record open to disclosure under chapter 92F.

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

15       [+]§138-11[+] **Dispute resolution.** (a) Any [~~wireless~~]  
16 communications service provider, reseller, independent, third-  
17 party accounting firms, consultants, or other third party  
18 retained by the State under section 138-2(i), or public safety  
19 answering point aggrieved by a decision of the board shall have  
20 the right to petition the board for reconsideration within ten

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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

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1 retained by the State under section 138-2(i), or public safety  
2 answering point from pursuing any existing right or remedy to  
3 which it is entitled in any court having jurisdiction thereof.

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

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

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

16

17

INTRODUCED BY: 

18

BY REQUEST

**Report Title:**

Enhanced 911 Services; Surcharge; Fund; Board

**Description:**

Establishes a single entity to administer enhanced 911 services for the State and expands the membership and responsibilities of the Wireless Enhanced 911 Board.

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO ENHANCED 911 SERVICES.

PURPOSE: The purpose of this bill is to establish a single entity to administer enhanced 911 services for the State of Hawaii.

MEANS: Amend chapter 138, Hawaii Revised Statutes.

JUSTIFICATION: The State of Hawaii is only one of six states that does not have a single entity for the coordination of enhanced 911 services. The State of Hawaii established and appointed the Wireless Enhanced 911 Board to administer wireless enhanced 911 service in the State of Hawaii. 911 technologies providing enhanced services have matured and converged to a point where systems today required to provide such service are blended. The current wireless enhanced 911 board does not include representation of other communications service providers. This legislation is amended and proposed to establish a single state entity to administer enhanced 911 services for the State of Hawaii, expand representation on the oversight board, and expand responsibility of the board to include all 911 services coordination.

Public Law 110-283; New and Emerging Technologies 911 Improvement Act of 2008, became law on July 23, 2008; facilitating the rapid deployment of IP-enabled 911 and E-911 services, encourages the Nation's transition to a national IP-enabled emergency network, and improve 911 and E-911 access to those with disabilities.

Currently there is only one state board, the Wireless Enhanced 911 Board that was established in 2004, that administers

enhanced 911 services in the State of Hawaii, however strictly for deployment of wireless 911 services.

The current Wireless Enhanced 911 Board recognizes that the efficient management of 911 Emergency Networks saves lives and dramatically reduces the liability of government entities and agencies. Furthermore, the technologies involved in providing enhanced 911 services have converged to a point that systems required to provide such service are blended and enhanced 911 systems are evolving to accept other forms of communications such as text, video and Telematics data.

Under the current law, the surcharges for wireline and wireless enhanced 911 service do not account for new and emerging technologies such as broadband service or IP-enabled services. Additionally, the current Wireless Enhanced 911 Board does not include representation of other communications service providers.

Therefore, in the interest of the safety of the public and visitors to Hawai'i, the following legislation is proposed to address the need for a single state entity to administer enhanced 911 services for the State of Hawaii.

Impact on the public: Improved 911 emergency telephone reporting services that will allow for the delivery of a request for emergency services via 911 from all communications technologies. In addition, the public will benefit from a more comprehensive, efficient and coordinated implementation, administration and operations of 911 services for the State of Hawaii.

Impact on the department and other agencies: Improved coordination of the implementation, administration, and operation of Enhanced

911 Services for county and local public safety entities and the State of Hawaii.

GENERAL FUND: None.

OTHER FUNDS: Wireless Enhanced 911 Fund.

PPBS PROGRAM  
DESIGNATION: AGS-891

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.