



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DEAN H. SEKI, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE
ON
February 3, 2014

H.B. 2549

RELATING TO ENHANCED 911 SERVICES

Chair McKelvey and members of the Committee, thank you for the opportunity to submit written testimony on H.B. 2549.

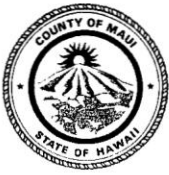
The Department of Accounting and General Services supports H.B.2549.

In Hawaii, it is our understanding that approximately 20% of the cell phones in use are contracted through prepaid plans not subject to the 911 surcharge of \$.66 per month per line. However, prepaid cellular phone customers enjoy all of the benefits that cellular phone customers who have paid \$.66 per month per line enjoy. The benefits include the purchase of computers and associated programs which allow cellular phone carriers to transmit 911 call information to public safety answer points (PSAPs) that allows the PSAPs to identify the cellular caller and the longitude and latitude of their location. The end result is that the prepaid cellular phone customers have their 911 service subsidized by the surcharge paying cellular phone

customers. H.B. 2549 provides equity by requiring all cellular phone users pay the 911 surcharge.

When the Enhanced 911 Board and Fund were established in 2004, the market for prepaid cellular phones were virtually nonexistent. Today, that has changed dramatically, with approximately 20% of the cellular phone customers using prepaid cellular phones. If the growth in the prepaid cellular phone market continues, the revenue in the Enhanced 911 Fund will decline and the financial viability of the Board will be questionable. Additionally, with the decline in revenue, technical improvements to the 911 systems will decline and cease followed by the decline in funding of maintenance to sustain the existing 911 systems.

Thank you for the opportunity to submit written testimony on this matter.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

January 30, 2014

The Honorable Angus L.K. McKelvey, Chair
And Members of the Committee on Consumer
Protection and Commerce
The Senate
State Capitol
Honolulu, HI 96813

RE: House Bill No. 2549 – Relating to Enhanced 911 Services

Dear Chair McKelvey and Members of the Committee:

The Maui Police Department supports HB 2549, which eliminates the enhanced 911 surcharge exemption for prepaid connections.

The passage of this bill will ensure that users of prepaid wireless communication services are not exempt from paying the enhanced 911 surcharge imposed on other wireless consumers. The surcharge, which contributes to the 911 funding system is essential to ensure equitable contributions from prepaid wireless consumers, who are currently exempt.

The Maui Police Department supports the passage of HB 2549.

Thank you for the opportunity to testify.

Sincerely,

AC D. Yabuta
GARY A. YABUTA
Chief of Police

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org

KIRK W. CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE SN-AS

February 3, 2014

The Honorable Angus L.K. McKelvey, Chair
and Members
Committee on Consumer Protection
and Commerce
House of Representatives
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

Subject: House Bill No. 2549, Relating to Enhanced 911 Services

I am Sean C. Naito, Major of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports House Bill No. 2549, Relating to Enhanced 911 Services. This bill provides fair and equitable contribution to the funding of the 911 system. Currently, prepaid wireless consumers are exempt from paying the 66 cents surcharge but have the same access to the 911 system. The collection and payment obligation of charges to support the 911 system should be in parity with other wireless consumers.

The HPD urges you to support House Bill No. 2549.

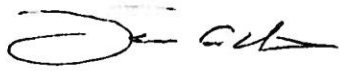
Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Louis M. Kealoha
Chief of Police


Sean C. Naito, Major
Communications Division

TESTIMONY OF THE HAWAII POLICE DEPARTMENT

HOUSE BILL 2549

RELATING TO ENHANCED 911 SERVICES

BEFORE THE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE : Monday, February 3, 2014

TIME : 2:10 P.M.

PLACE : Conference Room 325
State Capitol
415 South Beretania Street

PERSON TESTIFYING:

Acting Police Chief Paul K. Ferreira
Hawaii Police Department
County of Hawaii

(Written Testimony Only)

William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-8865

January 31, 2014

Representative Angus L.K. McKelvey
Chairman and Committee Members
Committee on Consumer Protection and Commerce
415 South Beretania Street, Room 325
Honolulu, Hawai'i 96813

Re: HOUSE BILL 2549 RELATING TO ENHANCED 911 SERVICES

Dear Representative McKelvey:

The Hawai'i Police Department supports House Bill 2549 with its purpose being to eliminate the exemption for prepaid wireless connections.

We believe this legislation as written will serve to ensure an act of equity amongst consumers of wireless communications devices in terms of needed revenue for enhanced 911 (E911) services attendant to these devices. In essence, the wireless communications industry similar to the computer industry is constantly incorporating and deploying newer, faster, and more efficient technology into the field.

In response, the Public Safety Answering Points (PSAPS) must also constantly upgrade their equipment in order to take advantage of the increasing capabilities of these devices as well as to meet public expectations for the technology. The recent movement towards the Next Generation 911 upgrading of PSAPS is a prime example. These upgrades will allow PSAPS to receive text messages, photos, and videos from wireless phones.

In that the E911 funding is utilized for necessary upgrades, we believe the rise in use of prepaid wireless connections should be attendant with elimination of the exemption in the best interests of the communities served by the various PSAPS in the state of Hawai'i.

It is for these reasons, we urge this committee to approve this legislation.

Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 2549.

Sincerely,

PAUL K. FERREIRA
ACTING POLICE CHIEF

TESTIMONY
OF
PAUL K. FERREIRA,
STATE OF HAWAII, ENHANCED 911 BOARD
TO THE
HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE
REPRESENTATIVE ANGUS L.K. MCKELVEY, CHAIR
REPRESENTATIVE DEREK S.K. KAWAKAMI, VICE CHAIR
ON
FEBRUARY 3, 2014
2:10 P.M.
STATE CAPITOL, CONFERENCE ROOM 325

**IN SUPPORT OF
HOUSE BILL 2549
RELATING TO ENHANCED 911 SERVICES**

Dear Representative McKelvey and Members:

I am Paul Ferreira, the Deputy Police Chief for the Hawai'i Police Department; however, I am providing testimony on behalf of the Enhanced 911 (E911) Board that is comprised of representatives from each of the Public Safety Answering Points (PSAPs), representatives of the communications service providers, and representatives from State agencies.

The Enhanced 9-1-1 Board is **strongly in support of HB 2549**, Relating to Enhanced 911 Services, seeking to ensure 9-1-1 surcharges are imposed in a fair and equitable manner with respect to prepaid mobile service. The term prepaid mobile service means mobile service which is paid for in advance, is sold in predetermined units or dollars, or for use within a predetermined period of time, and without the issuance of a monthly or other periodic bill. Prepaid wireless telecommunications services are an important segment of the telecommunications industry and have grown in use by consumers, however today prepaid wireless consumers are exempt from the surcharge and yet have always had access to 9-1-1. The telecommunications industry association estimates this represents approximately 20% of consumers in Hawaii.

Wireless Enhanced 9-1-1 was established by the State of Hawaii in 2004. The 9-1-1 surcharge has to date been funded in the postpaid model. The 9-1-1 surcharge is imposed by a uniform monthly surcharge on customer bills however prepaid mobile service connections are purchased by consumers at retail on a "pay as you go" basis with no contracts or monthly bills. HB 2549 removes the current exemption for prepaid service connections to ensure equitable contributions to the funding of 9-1-1 systems from consumers of prepaid wireless telecommunications services.

The collection and payment obligation of charges to support 9-1-1 in the amount of 66 cents per transaction at the point of sale collects the surcharge at the time of purchase directly from the consumer. This surcharge on prepaid like postpaid would be remitted to the special fund established for 9-1-1 outside the state treasury known as the enhanced 9-1-1 fund that is

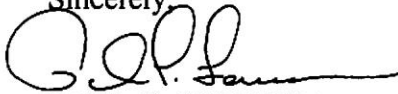
Testimony Of Paul K. Ferreira, State Of Hawai'i, Enhanced 911 Board
House Committee On Consumer Protection And Commerce
February 3, 2014
Page 2

administered by the Enhanced 9-1-1 Board. Moneys in the fund are expended exclusively by the board for the purposes of ensuring adequate funding to deploy and sustain enhanced 9-1-1 service statewide.

The 9-1-1 surcharge imposed upon the consumers of telecommunication services that have the ability to access 9-1-1 are an important funding mechanism to assist state and local governments with the deployment of new and emerging technologies. The benefit to the public is a comprehensive, efficient, and coordinated statewide 9-1-1 system serving all citizens that is in a funded fair and equitable manner.

Thank you for this opportunity to testify on this important matter. For the reasons above, we strongly urge this committee to approve House Bill 2549, Relating to Enhanced 911 Services.

Sincerely,

A handwritten signature in black ink, appearing to read "P. K. Ferreira", written over a horizontal line.

PAUL K. FERREIRA
LEGISLATIVE COMMITTEE CHAIR
WIRELESS E911 BOARD



BERNARD P. CARVALHO, JR.
Mayor

NADINE K. NAKAMURA
Managing Director

POLICE DEPARTMENT COUNTY OF KAUAI

3990 KAANA STREET, SUITE 200
LIHUE, HAWAII 96766-1268
TELEPHONE (808) 241-1600
FAX (808) 241-1604
www.kauaipd.org



DARRYL D. PERRY
Chief of Police
dperry@kauai.gov

MICHAEL M. CONTRADES
Deputy Chief
mcontrades@kauai.gov

January 31, 2014

Representative Angus L.K. McKelvey
Chairperson
Committee on Consumer Protection and Commerce
State Capitol
Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

RE: SUPPORT FOR HOUSE BILL 2549
RELATING TO ENHANCED 911 SERVICES

Dear Chairperson McKelvey:

I am writing in support of HB 2549, Relating to Enhanced 911 Services. HB 2549 is essential as it creates parity among mobile users to support 911 usage at a very minimal cost. This Bill in effect closes a loop hole with no negative repercussions.

The pre-paid wireless customers have always had access to 911 services but are exempt from paying the same 66 cent surcharge as all other users. This does not seem fair. This bill will correct this situation and is fair and equitable.

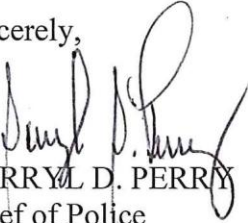
This Bill is in compliance with United States Congressional House Report Number 110-442 and United States Senate Report Number 110-142, which encourages State and local governments to apply 911 surcharges equitably to communication services and to accommodate the pre-paid mobile service business model.

We need to create fairness and equity in the way we fund the 911 services and HB 2549 brings this fairness to all wireless service providers.

Chairperson McKelvey
January 31, 2014
Page 2

I urge you and the committee to pass this legislation. Thank you for your attention and consideration of this very important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl D. Perry". The signature is written in a cursive style with a large, looping initial "D".

DARRYL D. PERRY
Chief of Police



Executive Officers:
Stanley Brown, ConAgra Foods - Chairperson
John Schilf, RSM Hawaii - Vice Chair
Derek Kurisu, KTA Superstores - Treasurer
Lisa DeCoito, Aloha Petroleum - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

TO:
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Angus McKelvey, Chair
Rep Derek Kawakami, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 3, 2014
TIME: 2:10pm
PLACE: Conference Room 325

RE: HB2549

Position: Opposition

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers and distributors of food and beverage related products in the State of Hawaii.

Here in Hawaii our retailers already pay several costly taxes and fees which are not only a financial burden, but an administrative burden as well. The state's system is incredibly complex and hard to navigate. It is unfair to add to that burden on our retailers without some form of compensation. This bill does not make it clear which agency is prepared to implement it and how retailers are expected to incorporate it into an already overly complicated system.

In addition to the negative impact on retailers this bill targets users of prepaid mobile devices, many of whom are from lower income brackets and have prepaid service as an alternative to more costly contract services. Technological literacy and access to mobile communication devices is more important than ever in this day and age. It seems that we should be taking steps to bridge the digital divide rather than creating additional financial barriers for lower income users to access mobile technology.

With many retailers and individuals still recovering from the financial crisis, and with the state reporting a budget surplus of \$844 million, we do not believe this is the right time to be increasing fees and surcharges. And while we cannot support this measure as it is currently written, we would be willing to work with AT&T and Verizon on a better solution.

Please do not pass this measure in its current form.

Thank you for the opportunity to testify.

January 31, 2014

Honorable Representative Angus McKelvey
Chair, Hawaii House Committee on Consumer Protection
Hawaii State Capitol
Room 320
Honolulu, HI 96813

RE: Opposition To House Bill 2549, 9-1-1 Surcharge on Prepaid Wireless Services

Dear Chairman McKelvey,

On behalf of CTIA-The Wireless Association®, the trade association for the wireless communications industry, I am writing to respectfully oppose House Bill 2549 related to imposition of the 9-1-1 surcharge on prepaid wireless services.

CTIA and the wireless industry are strong supporters of the public safety community and also believe a fully-funded and efficient 9-1-1 system is in the best interest of Hawaiian citizens. CTIA and the wireless industry are also supportive of a fair public policy system that requires all those who have access to the 9-1-1 system to contribute to that system. As such, CTIA believes prepaid wireless consumers should be paying a 9-1-1 surcharge.

The 9-1-1 Board staff approached the wireless industry this summer to ask for our assistance in drafting legislation to impose 9-1-1 fees on prepaid wireless users at the point of sale. The industry provided draft legislation using the model legislation that was endorsed by the National Conference of State Legislatures (NCSL) in 2009 – legislation that has been adopted in 31 states and the District of Columbia. Unfortunately, the Board instead endorsed the language incorporated in House Bill 2549.

We believe that House Bill 2549 is deficient in several key respects:

- The bill would eliminate the statutory exemption for prepaid wireless service without creating a mechanism for collection of the fee from third-party retail stores. As a result, the majority of prepaid wireless transactions would not be covered by the bill. While the draft “Procedures” document released by the Board would require third party retailers to collect, there is no statutory basis for that requirement. As a result, we believe that retail stores could refuse to collect the surcharge due to the lack of statutory authority to require them to collect.
- The “Procedures” that the Board has proposed to implement the bill, includes other provisions that lack a statutory basis. For example, the statute provides a 2% vendor collection allowance while the “Procedures” would allow for 3%.
- There are no “sourcing” rules for determining which prepaid transactions are subject to the Hawaii 9-1-1 surcharge. The current statute follows the federal “Mobile

Telecommunications Sourcing Act” (MTSA) rules and imposes the surcharge on customers with a “place of primary use” in Hawaii. However, the MTSA does not apply to prepaid wireless arrangements. As such, those rules do not apply and there are no alternative rules specified in the bill.

- The NCSL model legislation would place the responsibility for remittances and administration with the state’s revenue department (Department of Taxation in Hawaii). This is because the retail stores are already collecting and remitting the General Excise Tax on sales of prepaid wireless telecommunications service, so they are familiar with the agency and its rules and procedures. In fact, some states have modified their sales tax (general excise) tax returns to allow retailers to remit both fees on the same form, simplifying compliance for both retailers and the Department of Taxation. While we do not believe House Bill 2549 as written would compel compliance from third party retailers, even if it did, it would require retailers to remit the 9-1-1 surcharge to a different agency.

To reiterate, CTIA and its members support the imposition of the 9-1-1 surcharge on prepaid wireless users. We agree that all consumers who use the 9-1-1 system should share in the cost of funding that system. However, it is vital that the legislature make the statutory changes necessary to ensure that the system fairly captures all transactions and is not subject to protracted legal challenges.

Finally, the Board has made the argument that “fairness” dictates that the prepaid wireless surcharge should be imposed at the same rate as the surcharge that applies to contract (“postpaid”) wireless plans. However, CTIA would be remiss if we failed to point out that the fee charged on landline phone service is only 27 cents per month compared to the 66 cents imposed on wireless service. We believe this disparity should be addressed in this legislation or in the very near future.

In closing, for all the reasons outlined herein, CTIA and the wireless industry strongly urge your rejection of House Bill 2549 as proposed. Thank you for your consideration in this matter.

Sincerely,



Bethanne Cooley
Director, State Legislative Affairs
CTIA-The Wireless Association ®



Joyce Masamitsu
Director of Public Policy, West Area



15505 Sand Canyon Ave.
Irvine, CA 92618
Office: 949 286-8668
Mobile: 949-233-0925
Fax: 949-286-9009
Joyce.masamitsu@vzw.com

January 31, 2014

Honorable Representative Angus McKelvey
Chair, Hawaii House Committee on Consumer Protection
Hawaii State Capitol
Room 320
Honolulu, HI 96813

Re: Verizon Testimony OPPOSED: House Bill 2549 – Relating to Enhanced 911 Service

Dear Chairman McKelvey,

I submit this testimony on behalf of Verizon to express our concerns with House Bill 2549, legislation that would impose a new \$0.66 surcharge on users of prepaid wireless services at point of sale. While Verizon embraces the intent of the bill to ensure 9-1-1 surcharges are imposed on both postpaid and prepaid users of mobile wireless services in a fair and equitable manner, HB 2549 falls short of this goal.

First, the bill simply strikes the wireless prepay exemption that applies to “communications service providers” and “resellers” but does not provide statutory obligation for retailers selling prepay wireless service to collect and remit the 911 surcharge.

Second, bill language fails to provide the exact process for retailers to follow for the collection and remittance of the 911 surcharge from users of prepay services at point of sale. Omission of such essential information will lead to confusion and possible arbitration.

Finally, HB 2549 would have retailers in Hawaii remit payments to an entirely new entity they have not submitted a surcharge to in the past. The lack of a clearly defined process for how

retailers must then change their current operations to comply with the new law, make a smooth transition for retailers unlikely.

Verizon met with representatives from the Public Safety community over the 2013 interim session and assisted in the facilitation of discussions between wireless industry stakeholders and members of the 911 Advisory Council. In July, Verizon and the industry stakeholders offered Public Safety officials at their request, draft language for proposed legislation that the industry could support, that would allow retailers to collect and remit the 911 surcharge at point of sale. This draft legislation has been widely accepted across the country and already adopted in more than 30 states.

Unfortunately, HB 2549 does not include recommended language offered by the wireless industry.

While Verizon is willing to continue the discussion with representatives from the Public Safety Community over the interim session in support of their goals, for the above reasons, Verizon cannot support HB 2549 as introduced and respectfully asks Chairman McKelvey and Members of the Consumer Protection Committee to NOT PASS HB 2549.

Verizon appreciates the opportunity to submit testimony in opposition to HB 2549.

Thank you for your time and consideration.



Joyce Masamitsu



Dan Youmans
Regional Vice President
External Affairs

AT&T Services, Inc.
16331 NE 72nd Way
RTC1
Redmond, WA 98052

T: 425-580-1833
F: 425-580-8652
daniel.youmans@att.com
www.att.com

February 3, 2014

Honorable Representative Angus McKelvey
Chair, Hawaii House Committee on Consumer Protection
Hawaii State Capitol
Honolulu, HI 96813

RE: Testimony in **Opposition** to House Bill 2549, Hearing Room 325, 2:10 p.m.

Dear Rep. McKelvey and Members of the Committee on Consumer Protection:

AT&T opposes House Bill 2549 as introduced. While we support the use of the Point of Sale method to collect and remit surcharges on prepaid wireless services to help fund the state's 911 system, House Bill 2549 is deficient in setting up such a process.

The National Conference of State Legislatures (NCSL) has endorsed model legislation for properly establishing a Point of Sale process for prepaid 911 surcharges. We are currently in discussions with the state's Enhanced 911 Board and the Hawaii retail associations to provide the appropriate amendments needed for this bill to offer a viable process for Point of Sale to work. It's critical that all of the necessary procedures for creating this new surcharge on prepaid wireless services are established in statute. The model bill provides this direction and should be the basis for the Hawaii law.

AT&T urges the Committee on Consumer Protection to defer House Bill 2549 until the appropriate amendments can be offered by the wireless industry, Enhanced 911 Board, and the retailers.

Respectfully Submitted,

A handwritten signature in black ink that reads "Dan Youmans".

Dan Youmans
AT&T



Dan Youmans
Regional Vice President
External Affairs

AT&T Services, Inc.
16331 NE 72nd Way
RTC1
Redmond, WA 98052

T: 425-580-1833
F: 425-580-8652
daniel.youmans@att.com
www.att.com

February 3, 2014

Honorable Representative Angus McKelvey
Chair, Hawaii House Committee on Consumer Protection
Hawaii State Capitol
Honolulu, HI 96813

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Respectfully Submitted,

A handwritten signature in black ink that reads "Dan Youmans".

Dan Youmans
AT&T