



**COMMENTS OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

S.B. NO. 3103, S.D. 1, RELATING TO ENHANCED 911 SURCHARGES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 25, 2014

TIME: 9:25 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): David M. Louie, Attorney General, or
Deputy Attorney General, Stella M. L. Kam



Chair Ige and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill adds a new section to chapter 138, Hawaii Revised Statutes (HRS), to provide for the collection of the 911 surcharge from prepaid wireless consumers at the retail point of sale. However, the bill does not amend section 138-4, HRS, to reflect the addition of the new surcharge from prepaid wireless consumers. Specifically, subsections (a), (b), and (c) of section 138-4, HRS, need to be amended. We offer the following suggested amendments:

SECTION __. Section 138-4, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) ~~[A] Subject to this chapter, a~~ “a monthly enhanced 911 surcharge ~~to~~ to ~~subject to this chapter,~~ shall be imposed upon each communications service connection ~~[, except connections of the public utility providing telecommunications services and land line enhanced 911 services through section 269-16.95.]~~ and, as set forth in section 138-__ , a one-time enhanced 911 surcharge shall be imposed upon each prepaid wireless telecommunication service.

(b) The rate of the surcharge shall be set at 66 cents per month for each communications service connection ~~[-];~~ provided that the surcharge shall be as set forth in section 138-__ for each prepaid wireless telecommunication service. The surcharge shall have uniform application and shall be imposed on each communications service connection operating within the State except:

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

(c) ~~[A]~~ Except as provided in section 138-___, all communications service providers and resellers shall bill to and collect from each of their customers a monthly surcharge at the rate established for each communications service connection. The communications service provider or reseller may list the surcharge as a separate line item on each bill. If a communications service provider or reseller receives a partial payment for a monthly bill from a communications service customer, the communications service provider or reseller shall apply the payment against the amount the customer owes the communications service provider or reseller, before applying the partial payment against the surcharge.”

In addition, the bill defines “department” as “eHawaii.gov,” which is the State of Hawaii’s official website, but is not a government agency. The bill authorizes the “department” to take various actions, such as establishing procedures for the registration and payment of the surcharge for prepaid connections. Therefore, the “department” must be an entity that can take such actions.

We respectfully ask the Committee to pass this bill with the recommended amendments.



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
SENATE COMMITTEE
ON
WAYS AND MEANS
ON
February 25, 2014
S.B. 3103, S.D. 1

RELATING TO ENHANCED 911 SURCHARGES

Chair Ige and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 3103, S.D. 1.

The Department of Accounting and General Services supports the intent of S.B. 3103, S.D. 1 and recommends the following revisions to provide clarity:

- a. The word "department" be replaced with the word "Board" as this term is defined in section 138-1, Hawaii Revised Statutes, as the E911 Board. The definition of "Department" in SECTION 2 of this measure should also be deleted because "Department" is defined as "eHawaii.gov" which is not a state agency or department, but rather the web site address of the official state website; and
- b. Subsection (i) should be removed as this is a contractual requirement between the E911 Board and the web portal contractor.

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

COMMENTS
OF
PAUL K. FERREIRA,
STATE OF HAWAII, ENHANCED 911 BOARD, LEGISLATIVE COMMITTEE
TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS
ON
FEBRUARY 25, 2014
9:25 A.M.
STATE CAPITOL, CONFERENCE ROOM 211

IN SUPPORT
OF
SENATE BILL 3103, SD 1
RELATING TO ENHANCED 911 SURCHARGES

Chair Ige, Vice Chair Senator Michelle Kidani, and members of the committee, thank you for the opportunity to provide comments on SB 3103, SD 1, Relating to Enhanced 911 Surcharges.

The Enhanced 911 Board supports SB 3103, SD 1, to collect the 911 surcharge from prepaid wireless consumers at the retail point of sale and the board defers to the Attorney General's recommended language for HRS 138-4(a) and (b) to account for the new prepaid charges.

The collection on prepaid wireless 911 surcharge is very important in order to sustain adequate funding for enhanced 911 statewide. Our testimony is provided today on behalf of the thirteen-member Enhanced 911 Board that is comprised of representatives from each of the Public Safety Answering Points (PSAPs), representatives of the communications service providers, the public utility, and representatives from State agencies.

911 surcharges should be imposed in a fair and equitable manner with respect to prepaid mobile services like the 911 surcharge is collected today for postpaid wireless. The 911 surcharge should be imposed upon all consumers of telecommunication services that have the ability to access 911. This is an important funding mechanism to assist state and local governments in sustaining 911 systems and to provide for the deployment of new and emerging technologies. 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 911.

Today consumers of prepaid wireless are being subsidized by postpaid consumers who pay a monthly 911 surcharge. To be fair and equitable prepaid wireless consumers should not be exempt from the 66 cent 911 surcharge and therefore should pay 66 cents 911 surcharge per transaction at the point of sale.

Comments of Paul K. Ferreira, State Of Hawai`i, Enhanced 911 Board
Senate Committee on Ways and Means
February 24, 2014
Page 2

The telecommunications industry association estimates prepaid wireless consumers represent approximately 20% of the consumer market in Hawaii. All states have experienced tremendous growth of prepaid consumers which is why 36 states have now adopted legislation to collect a 911 surcharge from prepaid wireless consumers. The prepaid business model rather than postpaid contracts is the trend for the wireless industry today. While in the beginning prepaid was a good option for low income consumers, today they are not the only consumers opting for prepaid rather than a contract. The commercial ads on Super Bowl Sunday made it evident that the prepaid consumer is a broad market in the competitive market of the wireless industry. Contracts will likely be non-existent in the near future. Without the collection of the 911 surcharge on prepaid wireless, the state of Hawaii will be facing reductions in revenue to support our 911 system.

Wireless Enhanced 911 was established by the State of Hawaii in 2004. The 911 surcharge has to date, been funded in the postpaid model with prepaid 911 surcharge exempt. Prepaid service connections are purchased by consumers at retail on a "pay as you go" basis with no contracts or monthly bills.

SB 3103, SD 1, removes the exemption on prepaid service connections allowing collection of the 911 surcharge of 66 cents per transaction at the point of sale. This 911 surcharge would be collected at each sale at the time of purchase directly from the consumer. The surcharge on prepaid, like postpaid, would be remitted to the special fund established for enhanced 911 outside the State Treasury known as the Enhanced 911 fund that is administered by the Enhanced 911 Board. Moneys in the fund are expended exclusively by the board for the purposes of ensuring adequate funding to deploy and sustain enhanced 911 services statewide.

The benefit to the public is a comprehensive, efficient, and coordinated statewide 911 system serving all citizens that is funded in a fair and equitable manner for all.

For these reasons, we urge the committees to support this legislation with the recommended amendments. Thank you for this opportunity to provide comments on this important matter.

Sincerely,



PAUL K. FERREIRA
LEGISLATIVE COMMITTEE CHAIR
WIRELESS E911 BOARD

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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LATE

KIRK W. CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE SN-AS

February 25, 2014

The Honorable David Y. Ige, Chair
and Members
Committee on Ways and Means
State Senate
Hawaii State Capitol, Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige and Members:

Subject: Senate Bill No. 3103, SD 1, Relating to Enhanced 911 Surcharges

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


The HPD supports Senate Bill No. 3103, SD 1, Relating to Enhanced 911 Surcharges. 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 Senate Bill No. 3103, SD 1.

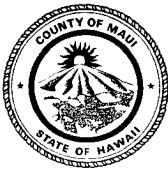
Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Louis M. Kealoha
Chief of Police


Sean C. Naito, Major
Communications Division



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
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(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

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

February 24, 2014

The Honorable David Y. Ige, Chair
And Members of the Committee on Ways and Means
The Senate
State Capitol
Honolulu, HI 96813

RE: SB 3103, SD1 – Relating to Enhanced 911 Surcharges

Dear Chair Ige and Members of the Committee:

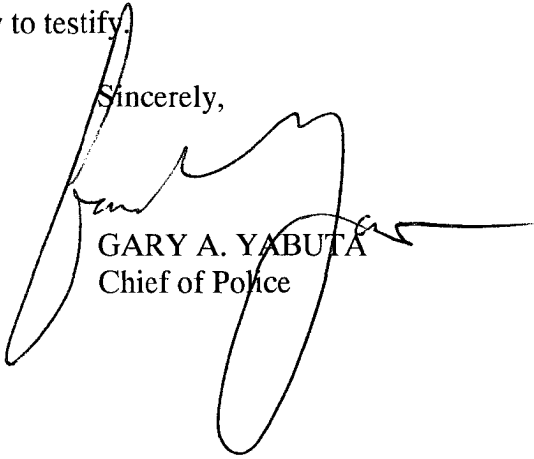
The Maui Police Department supports SB 3103, SD1, which establishes a prepaid wireless E911 surcharge of 66 cents per retail transaction of prepaid wireless telecommunications service at the point of sale; allows sellers to deduct and retain three per cent of the surcharge that is collected; allows eHawaii.gov to retain up to two per cent of the remitted surcharges to cover administrative costs; and requires the remaining amounts collected by eHawaii.gov to be placed in the enhanced 911 fund.

The passage of this bill will ensure that prepaid wireless communication service providers are not exempt from the enhanced 911 surcharge imposed on other wireless providers. The surcharge collected from consumers by prepaid wireless communications service providers or resellers, is essential to ensure equitable contributions to the enhanced 911 system.

The Maui Police Department supports the passage of SB 3103 SD1.

Thank you for the opportunity to testify.

Sincerely,


GARY A. YABUTA
Chief of Police

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Impose enhanced 911 surcharge on prepaid phones

BILL NUMBER: SB 3103, SD-1

INTRODUCED BY: Senate Committees on Public Safety, Intergovernmental and Military Affairs and Commerce and Consumer Protection

BRIEF SUMMARY: Adds a new section to HRS chapter 138 to provide that the enhanced 911 surcharge of 66 cents shall be imposed as a one-time charge on prepaid wireless telecommunications service. The surcharge shall be the liability of the consumer but collected by the seller. Allows the seller to retain 3% of the surcharge collected from consumers and remit the balance to eHawaii.gov. Prior to transmitting the funds to the enhanced 911 fund, eHawaii.gov may retain 2% of the revenue collected from the seller.

EFFECTIVE DATE: January 1, 2015

STAFF COMMENTS: The legislature by Act 159, SLH 1994, established a wireless enhanced 911 surcharge of 66 cents per month and a wireless enhanced 911 fund to allow deployment of phase 1 and phase 2 of the wireless enhanced 911 service and expenses of administering the fund. The wireless enhanced 911 program allows wireless phones to be located by public safety personnel in the event of an emergency. The fee is collected to reimburse facilities that provide Public Safety Answering Points (PSAP) which are set up to determine the location of a wireless 911 call for emergency services.

In Act 79, SLH 2009, the legislature determined that there was an excess \$16 million in the enhanced 911 fund. At the time, public safety officials complained that diversion of receipts in the fund could disqualify the state from participating in federal grant programs to enhance the technology of 911 systems. But the fund was raided anyway. It now may be a good time for lawmakers to investigate whether all the funding needs of the system have been made and if upgrades are still needed. Are there technologies still to be implemented to fully operate the system? Is the rate too high, bringing in revenues faster than they can be spent? If the latter is true, then lawmakers should consider reducing the rate so the monthly burden will not be as great on users.

Currently, wireless phones are assessed a surcharge of 66 cents per month while landline phones are assessed 27 cents per month. Prepaid service connections or prepaid pay as you go cell phones are exempt from this surcharge. Because prepaid phones also have access to enhanced 911 services, it appears equitable to assess those phones a comparable amount.

In addition, prepaid phones may be recharged with minutes purchased online. Decisions also need to be made about how to treat recharges; the current language appears to allow recharges to be exempt because the intent appears to be to surcharge prepaid phones only once.

Digested 2/23/14

February 24, 2014

Honorable Senator David Y. Ige
Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 208
Honolulu, HI 96813

Honorable Senator Michelle N. Kidani
Vice-Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 228
Honolulu, HI 96813

RE: Senate Bill 3103 SD1, 9-1-1 Prepaid Surcharge – Support with Amendments

Dear Chair Ige and Vice-Chair Kidani,

On behalf of CTIA-The Wireless Association®, the trade association for the wireless communications industry, I am writing to express our support for Senate Bill 3103 SD1 related to the imposition of the 9-1-1 surcharge on prepaid wireless services. While we still have concerns with one provision of the bill, Senate Bill 3103 SD1 is vastly improved over prior iterations.

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 the people of Hawaii. With the proliferation of 9-1-1 calls made from wireless devices, it is that much more imperative that all who benefit from access to the 9-1-1 system are also contributors. As such, CTIA supports the public policy that prepaid wireless consumers should be paying a 9-1-1 surcharge.

Due to the unique business model of prepaid wireless services, where the majority of transactions occur at national ‘big box’ stores and other general retailers, the only way to accurately capture the 9-1-1 surcharge is to collect the surcharge at the point-of-sale at the time of the retail transaction. The wireless industry believes that model legislation endorsed by the National Conference of State Legislatures (NCSL) in 2009 is the appropriate method in which to accurately capture this surcharge. This legislation has been adopted in 31 states and the District of Columbia.

While Senate Bill 3103 SD1 is an improvement in comparison to other 9-1-1 pieces of legislation pending before the legislature, the bill does deviate from the NCSL endorsed model bill in one critical way. The legislation, as proposed, would require retailers to remit to eHawaii instead of the Department of Taxation. The legislation, as proposed, would require retailers to remit the 9-1-1 prepaid surcharge to eHawaii instead of the Department of Taxation. This would require sellers of prepaid wireless services to deal with two state agencies – the Hawaii Department of Taxation for general excise taxes and eHawaii for the 9-1-1 prepaid surcharge.

This would lead to duplication of administration, compliance costs, etc. The NCSL-endorsed model bill would require all remittances to go to a single agency (the state's revenue department).

In closing, CTIA would like to thank SB 3103's sponsor, Senator Espero, for his continued work on this legislation. The bill before you today is vastly improved over prior iterations. As such, CTIA respectfully supports the legislation with an amendment to ensure retailers of prepaid wireless services remit to one state agency.

Sincerely,



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



John R. Cmelak
Vice President
State Tax Policy, West Area



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February 24, 2014

Honorable Senator David Y. Ige
Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 208
Honolulu, HI 96813

Honorable Senator Michelle N. Kidani
Vice-Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 228
Honolulu, HI 96813

Re: Verizon Testimony, Senate Bill 3103 SD1, 9-1-1 Prepaid Surcharge – Support

Dear Chair Ige and Vice-Chair Kidani,

Verizon supports Senate Bill 3103 SD1, legislation relating to the imposition of Hawaii's 9-1-1 surcharge on prepaid wireless services.

Although the bill deviates from the NCSL endorsed model bill by requiring retailers to remit to eHawaii.gov instead of the Department of Taxation, all other key components of the NCSL model have been captured. SB 3103 SD1 is essentially the same type of legislation that has already been adopted in 31 states and the District of Columbia. It is the most appropriate method in which to accurately impose Hawaii's 9-1-1 surcharge on prepaid wireless services.

Verizon is a strong supporter of the public safety community and believes that an efficient and fair 9-1-1 system is in the best interest of Hawaii citizens.

Verizon appreciates the opportunity to support SB 3103 SD1.

February 24, 2014

Honorable Senator David Y. Ige
Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 208
Honolulu, HI 96813

Honorable Senator Michelle N. Kidani
Vice-Chair, Hawaii Senate Ways and Means Committee
Hawaii State Capitol
Room 228
Honolulu, HI 96813

RE: Senate Bill 3103 SD1, 9-1-1 Prepaid Surcharge – Support with Amendments

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Due to the unique business model of prepaid wireless services, where the majority of transactions occur at national ‘big box’ stores and other general retailers, the only way to accurately capture the 9-1-1 surcharge is to collect the surcharge at the point-of-sale at the time of the retail transaction. The wireless industry believes that model legislation endorsed by the National Conference of State Legislatures (NCSL) in 2009 is the appropriate method in which to accurately capture this surcharge. This legislation has been adopted in 31 states and the District of Columbia.

While Senate Bill 3103 SD1 is an improvement in comparison to other 9-1-1 pieces of legislation pending before the legislature, the bill does deviate from the NCSL endorsed model bill in one critical way. The legislation, as proposed, would require retailers to remit to eHawaii instead of the Department of Taxation. The legislation, as proposed, would require retailers to remit the 9-1-1 prepaid surcharge to eHawaii instead of the Department of Taxation. This would require sellers of prepaid wireless services to deal with two state agencies – the Hawaii Department of Taxation for general excise taxes and eHawaii for the 9-1-1 prepaid surcharge.

This would lead to duplication of administration, compliance costs, etc. The NCSL-endorsed model bill would require all remittances to go to a single agency (the state's revenue department).

In closing, CTIA would like to thank SB 3103's sponsor, Senator Espero, for his continued work on this legislation. The bill before you today is vastly improved over prior iterations. As such, CTIA respectfully supports the legislation with an amendment to ensure retailers of prepaid wireless services remit to one state agency.

Sincerely,



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





Dan Youmans
Regional Vice President
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February 25, 2014

Honorable Senator David Ige
Chair, Committee on Ways and Means
Hawaii State Capitol
Honolulu, HI 96813

RE: Testimony in **Support** to Senate Bill 3103 SD1, Conference Room 211,
February 25, 2014, 9:25 a.m.

Dear Sen. Ige and Committee Members:

AT&T supports Senate Bill 3103 SD1, which would establish the use of a "Point of Sale" method to collect and remit surcharges on prepaid wireless services to help fund the state's 911 system. If approved, Hawaii would join more than 30 states in using Point of Sale as the preferred method for placing a surcharge on prepaid wireless services.

The State of Hawaii currently applies a 66-cent per month surcharge on "post-paid" wireless services. These customers pay the 911 surcharge each month after being billed by their wireless carrier.

On the other hand, prepaid wireless customers do not receive a monthly bill. These customers pay for their services anytime, as needed, and may purchase these services from a wide variety of retailers and on-line. Therefore, the most viable way to collect the surcharge is during the actual retail transaction, or "Point of Sale." Senate Bill 3103 SD1 would establish such a process for prepaid customers, and will bring fairness to how the 911 system is supported.

Finally, Senate Bill 3103 SD1 is generally patterned after the Point of Sale model bill endorsed by the National Conference of State Legislatures (NCSL). AT&T urges your support for this legislation.

Respectfully Submitted,

Dan Youmans
AT&T