

JAN 27 2016

SB. NO. 2805

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 by adding a new section to be appropriately designated
3 and to read as follows:

4 "§138- Prepaid wireless E911 surcharge. (a) A prepaid
5 wireless E911 surcharge of 66 cents shall be imposed on each
6 retail transaction of prepaid wireless telecommunications
7 service. The prepaid wireless E911 surcharge is the liability
8 of the consumer and not of the seller or provider.

9 (b) The prepaid wireless E911 surcharge shall be
10 collected by the seller from the consumer with respect to each
11 retail transaction occurring within the State. The amount of
12 the prepaid wireless E911 surcharge shall be separately listed
13 on an invoice, receipt, or other similar document that is
14 provided to the consumer by the seller.

15 (c) A retail transaction that is transacted in person by a
16 consumer at a seller's business location shall be treated as
17 occurring within the State if the business location is within
18 the State. A transaction shall also be treated as occurring
19 within the State if the tangible personal property is shipped

1 and the customer's shipping address is within the State or, if
2 there is no shipment, if the customer's billing address is
3 within the State. If no tangible personal property is shipped
4 and the customer's billing address is not known, the transaction
5 shall be treated as occurring within the State if the consumer's
6 mobile telephone is associated with an address within the State.

7 (d) A seller may deduct and retain three per cent of
8 prepaid wireless E911 surcharges collected from consumers. The
9 seller shall remit to the board the balance of prepaid wireless
10 E911 surcharges collected from consumers, including all
11 surcharges collected where the amount of the surcharge has not
12 been separately stated on an invoice, receipt, or other similar
13 document provided to the consumer by the seller. The board may
14 require sellers to remit the balance of the surcharges collected
15 electronically and shall establish registration and payment
16 procedures.

17 (e) The amount of the prepaid wireless E911 surcharge that
18 is collected by a seller from a consumer shall not be included
19 in the base for measuring any tax, fee, surcharge, or other
20 charge that is imposed by the State, any political subdivision
21 of the State, or any governmental agency.

1 (f) If a minimal amount of prepaid wireless
2 telecommunications service is sold with a prepaid wireless
3 device for a single, non-itemized price, the seller shall not
4 apply the surcharge imposed in subsection (a) to the
5 transaction. For purposes of this subsection, a "minimal
6 amount" means service of ten minutes or less or \$5 or less.

7 (g) The board shall establish procedures by which a seller
8 of prepaid wireless telecommunications service may document that
9 a sale is not a retail transaction.

10 (h) Within thirty days of receipt and for use in
11 accordance with the purposes of chapter 138, the board shall
12 transfer all remitted prepaid wireless E911 surcharges to the
13 enhanced E911 fund pursuant to section 138-3.

14 (i) Section 138-9 shall apply to providers and sellers.

15 (j) No provider or seller shall be liable for damages to
16 any person resulting from or incurred in connection with the
17 provision of any lawful assistance to any investigative or law
18 enforcement officer of the United States or any political
19 subdivision, in connection with any lawful investigation or
20 other law enforcement activity by such law enforcement officer.

21 (k) The prepaid wireless E911 surcharge imposed by this
22 section shall be the only funding obligation imposed on prepaid

1 wireless telecommunications service in the State for enhanced
2 911 services. No other tax, fee, surcharge, or other charge for
3 enhanced 911 services shall be imposed by the State, any
4 political subdivision of the State, or any governmental agency,
5 upon any provider, seller, or consumer with respect to the sale,
6 purchase, use, or provision of prepaid wireless
7 telecommunications service."

8 SECTION 2. Section 138-1, Hawaii Revised Statutes, is
9 amended by adding seven new definitions to be appropriately
10 inserted and to read as follows:

11 "Consumer" means a person who purchases prepaid wireless
12 telecommunications service in a retail transaction.

13 "Prepaid wireless E911 surcharge" means the surcharge that
14 is required to be collected by a seller from a consumer in the
15 amount established under 138- .

16 "Prepaid wireless telecommunications service" means a
17 wireless telecommunications service that is sold in
18 predetermined (minutes usage or period of time) units or dollars
19 that decline with use in a known amount and allows a caller to
20 dial 911 to access the 911 system, a service that shall be paid
21 for in advance.

1 "Provider" means a person that provides prepaid wireless
2 telecommunications service pursuant to a license issued by the
3 Federal Communications Commission.

4 "Retail transaction" means the purchase of prepaid wireless
5 telecommunications service from a seller for any purpose other
6 than resale.

7 "Seller" means a person who sells prepaid wireless
8 telecommunications service to another person.

9 "Wireless telecommunications service" means commercial
10 mobile radio service as defined by title 47 Code of Federal
11 Regulations section 20.3."

12 SECTION 3. Section 138-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§138-3 Enhanced 911 fund. There is established outside
15 the state treasury a special fund, to be known as the enhanced
16 911 fund, to be administered by the board. The fund shall
17 consist of amounts collected under ~~[section]~~ sections 138-4 ~~[+]~~
18 and 138- . The board shall place the funds in an interest-
19 bearing account at any federally insured financial institution,
20 separate and apart from the general fund of the State. Moneys
21 in the fund shall be expended exclusively by the board for the
22 purposes of ensuring adequate funding to deploy and sustain

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1 enhanced 911 service, developing and funding future enhanced 911
2 technologies, and funding expenses of administering the fund."

3 SECTION 4. Section 138-4, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The rate of the surcharge shall be set at 66 cents
6 per month for each communications service connection. The
7 surcharge shall have uniform application and shall be imposed on
8 each communications service connection operating within the
9 State except:

10 (1) Connections billed to federal, state, and county
11 governmental entities;

12 [~~(2) Prepaid connections;~~] and

13 [~~(3)~~] (2) Connections provided by the public utility
14 providing telecommunications services and land line
15 enhanced 911 services through section 269-16.95."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act, upon its approval, shall take effect
19 on July 1, 2017.

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INTRODUCED BY: 

22

BY REQUEST

Report Title:

Prepaid Wireless; Enhanced 911 Services

Description:

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 3 per cent of the surcharge that is collected. Requires the amounts collected by the Enhanced 911 Board to be placed in the Enhanced 911 Fund. Effective on July 1, 2017.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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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 prepaid wireless E911 Surcharge imposed on wireless prepaid service connections.

MEANS: Add a new section to chapter 138, Hawaii Revised Statutes (HRS), and amend sections 138-1, 138-3, and 138-4, HRS.

JUSTIFICATION: The Enhanced 911 Fund (the Fund) ensures adequate funding to deploy and sustain enhanced 911 services, as well as to develop and fund future enhanced 911 technologies. Currently, a monthly surcharge of 66 cents is imposed upon each communications service connection except wireless prepaid mobile phone users and is remitted by the communications service providers to the Fund.

Under existing law, the surcharge is not imposed on wireless prepaid mobile phone users despite the growth of prepaid phones. Approximately 40 states have already passed prepaid legislation in order to partially fund their required migration to Next Generation 911 technology. The Federal Communications Commission (FCC) continually imposes requirements upon the Public Safety Answering Points (PSAPs) (e.g., police, fire, and emergency services) to implement new 911 technologies such as text-to-911, multimedia messaging (photo and video) to 911 and dispatchable location; however, with each requirement there is no federal funding to assist with the costs of these new and emerging technologies. Should the PSAPs not comply with these new FCC requirements, they may be subject to fines.

Prepaid mobile phone users benefit from the 911 system and they should also participate equally in support of the 911 system through a surcharge as outlined in this bill. The estimated revenue of between \$1,000,000 - \$2,000,000 per year from prepaid mobile phone users will assist in upgrading and maintaining the PSAPs' computer hardware and software in order to support the aforementioned new and emerging technologies. Our forecasted cash flow for FY2017-23 projects a negative cash position of \$4,500,000 at the end of FY2023 if prepaid legislation is not passed. If passed, the projected cash flow with the prepaid revenue will result in a balanced cash flow over the term (revenue equals expenditures).

Impact on the public: The prepaid user will experience the cost of the added surcharge fees; however, the general public will benefit in that price parity will be achieved with all wireless mobile phone users paying their fair share for service received and to further ensure quality of 911 service.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: N/A

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: July 1, 2017.