

S.B. NO. 3028

JAN 24 2024

A BILL FOR AN ACT

RELATING TO 911 SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the technology for
2 911 services is continually evolving, resulting in changing
3 terminology to describe such technology. Twenty years ago, the
4 term "enhanced" for 911 services referred to the new technology
5 at that time, which allowed identification of the caller's
6 telephone number as well as the location of the caller. Across
7 the nation, states are now in the process of implementing "next
8 generation" 911 technology containing significant advances to
9 the "enhanced" 911 technology. However, chapter 138, Hawaii
10 Revised Statutes, identifies 911 services in the State as
11 "enhanced" 911 services and restricts funding solely for such
12 "enhanced" 911 services, preventing the State from using funding
13 for future 911 technologies. Deletion of the term "enhanced"
14 will allow continued funding for the most up-to-date 911
15 services, which is critical for the safety and well-being of all
16 people residing in or visiting the State.

17 The legislature also finds that the 911 board may employ
18 staff, in addition to the executive director, exempt from

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1 chapters 76 and 89, Hawaii Revised Statutes, to carry out the
2 responsibilities under chapter 138, Hawaii Revised Statutes.

3 SECTION 2. Section 76-16, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The civil service to which this chapter applies shall
6 comprise all positions in the State now existing or hereafter
7 established and embrace all personal services performed for the
8 State, except the following:

9 (1) Commissioned and enlisted personnel of the Hawaii
10 National Guard as such, and positions in the Hawaii
11 National Guard that are required by state or federal
12 laws or regulations or orders of the National Guard to
13 be filled from those commissioned or enlisted
14 personnel;

15 (2) Positions filled by persons employed by contract where
16 the director of human resources development has
17 certified that the service is special or unique or is
18 essential to the public interest and that, because of
19 circumstances surrounding its fulfillment, personnel
20 to perform the service cannot be obtained through
21 normal civil service recruitment procedures. Any such
22 contract may be for any period not exceeding one year;

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- 1 (3) Positions that must be filled without delay to comply
2 with a court order or decree if the director
3 determines that recruitment through normal recruitment
4 civil service procedures would result in delay or
5 noncompliance, such as the Felix-Cayetano consent
6 decree;
- 7 (4) Positions filled by the legislature or by either house
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of
10 the lieutenant governor, and household employees at
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,
14 commission, or other state agency whose appointments
15 are made by the governor or are required by law to be
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries
18 public, land court examiners, court commissioners, and
19 attorneys appointed by a state court for a special
20 temporary service;
- 21 (9) One bailiff for the chief justice of the supreme court
22 who shall have the powers and duties of a court

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1 officer and bailiff under section 606-14; one
2 secretary or clerk for each justice of the supreme
3 court, each judge of the intermediate appellate court,
4 and each judge of the circuit court; one secretary for
5 the judicial council; one deputy administrative
6 director of the courts; three law clerks for the chief
7 justice of the supreme court, two law clerks for each
8 associate justice of the supreme court and each judge
9 of the intermediate appellate court, one law clerk for
10 each judge of the circuit court, two additional law
11 clerks for the civil administrative judge of the
12 circuit court of the first circuit, two additional law
13 clerks for the criminal administrative judge of the
14 circuit court of the first circuit, one additional law
15 clerk for the senior judge of the family court of the
16 first circuit, two additional law clerks for the civil
17 motions judge of the circuit court of the first
18 circuit, two additional law clerks for the criminal
19 motions judge of the circuit court of the first
20 circuit, and two law clerks for the administrative
21 judge of the district court of the first circuit; and
22 one private secretary for the administrative director

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1 of the courts, the deputy administrative director of
2 the courts, each department head, each deputy or first
3 assistant, and each additional deputy, or assistant
4 deputy, or assistant defined in paragraph (16);

5 (10) First deputy and deputy attorneys general, the
6 administrative services manager of the department of
7 the attorney general, one secretary for the
8 administrative services manager, an administrator and
9 any support staff for the criminal and juvenile
10 justice resources coordination functions, and law
11 clerks;

12 (11) (A) Teachers, principals, vice-principals, complex
13 area superintendents, deputy and assistant
14 superintendents, other certificated personnel, no
15 more than twenty noncertificated administrative,
16 professional, and technical personnel not engaged
17 in instructional work;

18 (B) Effective July 1, 2003, teaching assistants,
19 educational assistants, bilingual/bicultural
20 school-home assistants, school psychologists,
21 psychological examiners, speech pathologists,
22 athletic health care trainers, alternative school

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1 work study assistants, alternative school
2 educational/supportive services specialists,
3 alternative school project coordinators, and
4 communications aides in the department of
5 education;

6 (C) The special assistant to the state librarian and
7 one secretary for the special assistant to the
8 state librarian; and

9 (D) Members of the faculty of the University of
10 Hawaii, including research workers, extension
11 agents, personnel engaged in instructional work,
12 and administrative, professional, and technical
13 personnel of the university;

14 (12) Employees engaged in special, research, or
15 demonstration projects approved by the governor;

16 (13) (A) Positions filled by inmates, patients of state
17 institutions, persons with severe physical or
18 mental disabilities participating in the work
19 experience training programs;

20 (B) Positions filled with students in accordance with
21 guidelines for established state employment
22 programs; and

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1 (C) Positions that provide work experience training
2 or temporary public service employment that are
3 filled by persons entering the workforce or
4 persons transitioning into other careers under
5 programs such as the federal Workforce Investment
6 Act of 1998, as amended, or the Senior Community
7 Service Employment Program of the Employment and
8 Training Administration of the United States
9 Department of Labor, or under other similar state
10 programs;

11 (14) A custodian or guide at Iolani Palace, the Royal
12 Mausoleum, and Hulihee Palace;

13 (15) Positions filled by persons employed on a fee,
14 contract, or piecework basis, who may lawfully perform
15 their duties concurrently with their private business
16 or profession or other private employment and whose
17 duties require only a portion of their time, if it is
18 impracticable to ascertain or anticipate the portion
19 of time to be devoted to the service of the State;

20 (16) Positions of first deputies or first assistants of
21 each department head appointed under or in the manner
22 provided in section 6, article V, of the Hawaii State

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1 Constitution; three additional deputies or assistants
2 either in charge of the highways, harbors, and
3 airports divisions or other functions within the
4 department of transportation as may be assigned by the
5 director of transportation, with the approval of the
6 governor; one additional deputy in the department of
7 human services either in charge of welfare or other
8 functions within the department as may be assigned by
9 the director of human services; four additional
10 deputies in the department of health, each in charge
11 of one of the following: behavioral health,
12 environmental health, hospitals, and health resources
13 administration, including other functions within the
14 department as may be assigned by the director of
15 health, with the approval of the governor; two
16 additional deputies in charge of the law enforcement
17 programs, administration, or other functions within
18 the department of law enforcement as may be assigned
19 by the director of law enforcement, with the approval
20 of the governor; three additional deputies each in
21 charge of the correctional institutions,
22 rehabilitation services and programs, and

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1 administration or other functions within the
2 department of corrections and rehabilitation as may be
3 assigned by the director of corrections and
4 rehabilitation, with the approval of the governor; an
5 administrative assistant to the state librarian; and
6 an administrative assistant to the superintendent of
7 education;

8 (17) Positions specifically exempted from this part by any
9 other law; provided that:

10 (A) Any exemption created after July 1, 2014, shall
11 expire three years after its enactment unless
12 affirmatively extended by an act of the
13 legislature; and

14 (B) All of the positions defined by paragraph (9)
15 shall be included in the position classification
16 plan;

17 (18) Positions in the state foster grandparent program and
18 positions for temporary employment of senior citizens
19 in occupations in which there is a severe personnel
20 shortage or in special projects;

21 (19) Household employees at the official residence of the
22 president of the University of Hawaii;

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- 1 (20) Employees in the department of education engaged in
2 the supervision of students during meal periods in the
3 distribution, collection, and counting of meal
4 tickets, and in the cleaning of classrooms after
5 school hours on a less than half-time basis;
- 6 (21) Employees hired under the tenant hire program of the
7 Hawaii public housing authority; provided that not
8 more than twenty-six per cent of the authority's
9 workforce in any housing project maintained or
10 operated by the authority shall be hired under the
11 tenant hire program;
- 12 (22) Positions of the federally funded expanded food and
13 nutrition program of the University of Hawaii that
14 require the hiring of nutrition program assistants who
15 live in the areas they serve;
- 16 (23) Positions filled by persons with severe disabilities
17 who are certified by the state vocational
18 rehabilitation office that they are able to perform
19 safely the duties of the positions;
- 20 (24) The sheriff;
- 21 (25) A gender and other fairness coordinator hired by the
22 judiciary;

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- 1 (26) Positions in the Hawaii National Guard youth and adult
2 education programs;
- 3 (27) In the state energy office in the department of
4 business, economic development, and tourism, all
5 energy program managers, energy program specialists,
6 energy program assistants, and energy analysts;
- 7 (28) Administrative appeals hearing officers in the
8 department of human services;
- 9 (29) In the Med-QUEST division of the department of human
10 services, the division administrator, finance officer,
11 health care services branch administrator, medical
12 director, and clinical standards administrator;
- 13 (30) In the director's office of the department of human
14 services, the enterprise officer, information security
15 and privacy compliance officer, security and privacy
16 compliance engineer, security and privacy compliance
17 analyst, information technology implementation
18 manager, assistant information technology
19 implementation manager, resource manager,
20 community/project development director, policy
21 director, special assistant to the director, and

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- 1 limited English proficiency project
- 2 manager/coordinator;
- 3 (31) The Alzheimer's disease and related dementia services
- 4 coordinator in the executive office on aging;
- 5 (32) In the Hawaii emergency management agency, the
- 6 executive officer, public information officer, civil
- 7 defense administrative officer, branch chiefs, and
- 8 emergency operations center state warning point
- 9 personnel; provided that for state warning point
- 10 personnel, the director shall determine that
- 11 recruitment through normal civil service recruitment
- 12 procedures would result in delay or noncompliance;
- 13 (33) The executive director and seven full-time
- 14 administrative positions of the school facilities
- 15 authority;
- 16 (34) Positions in the Mauna Kea stewardship and oversight
- 17 authority;
- 18 (35) In the office of homeland security of the department
- 19 of law enforcement, the statewide interoperable
- 20 communications coordinator; [and]

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1 [+](36)[+]In the social services division of the department of
2 human services, the business technology analyst[-];
3 and

4 (37) The executive director and staff of the 911 board.

5 The director shall determine the applicability of this
6 section to specific positions.

7 Nothing in this section shall be deemed to affect the civil
8 service status of any incumbent as it existed on July 1, 1955."

9 SECTION 3. Chapter 138, Hawaii Revised Statutes, is
10 amended by amending its title to read as follows:

11 "CHAPTER 138
12 [~~Enhanced~~] 911 SERVICES"

13 SECTION 4. Section 138-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending the definition of "automatic location
16 identification" to read:

17 ""Automatic location identification" means [~~an-enhanced~~] a
18 911 service capability that enables the automatic display of
19 information indicating the address or approximate geographic
20 location of the communication device used to place a 911 call."

21 2. By amending the definition of "automatic number
22 identification" to read:

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1 "Automatic number identification" means [~~an enhanced~~] a
2 911 service capability that enables the automatic display of the
3 ten-digit telephone number or some other unique identifier of
4 the device from which a 911 call is placed."

5 3. By amending the definition of "board" to read:

6 "Board" means the [~~enhanced~~] 911 board established under
7 this chapter."

8 4. By amending the definition of "Enhanced 911 fund" or
9 "fund" to read:

10 "["~~Enhanced~~] 911 fund" or "fund" means the special fund
11 established by section 138-3."

12 5. By amending the definition of "Enhanced 911 service
13 costs" to read:

14 "["~~Enhanced~~] 911 service costs" means all capital,
15 nonrecurring, and recurring costs directly related to the
16 implementation, operation, and administration of [~~enhanced~~] 911
17 services."

18 6. By amending the definition of "911 system" to read:

19 "911 system" means an emergency communications system
20 that:

21 (1) Enables the user of a voice communications service
22 connection such as telephone, computer, or commercial

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

8 (2) Provides [~~enhanced~~] public safety answering point
9 dispatch and response 911 [service.] services."

10 7. By amending the definition of "proprietary information"
11 to read:

12 ""Proprietary information" means customer lists and other
13 related information (including the number of customers),
14 technology descriptions, technical information, or trade
15 secrets, and the actual or developmental costs of [~~enhanced~~] 911
16 service that are developed, produced, or received internally by
17 a communications service provider or by a provider's employees,
18 directors, officers, or agents."

19 SECTION 5. Section 138-2, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending its title to read:

22 "\$138-2 [~~Enhanced~~] 911 board."

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1 2. By amending subsection (a) to read:

2 "(a) There is created within the department of accounting
3 and general services, for administrative purposes, [~~an enhanced~~]
4 a 911 board consisting of thirteen voting members; provided that
5 the membership shall consist of:

6 (1) The chief information officer or the chief information
7 officer's designee;

8 (2) Three representatives from wireless communications
9 service providers, who shall be appointed by the
10 governor as provided in section 26-34;

11 (3) One representative each from the public safety
12 answering points for Oahu, Hawaii, Kauai, Maui, and
13 Molokai and one representative, chosen by the mayor of
14 the city and county of Honolulu, who shall be
15 appointed by the governor as provided in section 26-
16 34;

17 (4) The consumer advocate or the consumer advocate's
18 designee;

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

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1 (6) One representative of the public utility providing
2 telecommunications services and land line [enhanced]
3 911 services through section 269-16.95."

4 3. By amending subsection (e) to read:

5 "(e) The members representing wireless providers, the
6 public utility providing telecommunications services and land
7 line [enhanced] 911 services through section 269-16.95, and
8 Interconnected Voice over Internet Protocol service providers
9 shall be appointed by the governor for terms of two years."

10 4. By amending subsections (h) and (i) to read:

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

15 (i) The board, or its chairperson[7] with the approval of
16 the board, may employ an executive director and other staff
17 exempt from chapters 76 and 89, [~~and other staff~~7] and may
18 retain independent, third-party accounting firms, consultants,
19 or other third party to:

20 (1) Create reports, make payments into the fund, process
21 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 no
6 employee, third-party accounting firm, consultant, or
7 other third party hired to perform these
8 administrative duties may be retained if the employee,
9 accounting firm, consultant, or other third party,
10 either directly or indirectly, has a conflict of
11 interest or is affiliated with the management of or
12 owns a pecuniary interest in any entity subject to the
13 provisions of this chapter."

14 SECTION 6. Section 138-5, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) Every public safety answering point shall be eligible
18 to seek disbursements from the fund to pay for the reasonable
19 costs to lease, purchase, or maintain all necessary equipment,
20 including computer hardware, software, and database
21 provisioning, required by the public safety answering point to
22 provide technical functionality for the [enhanced] 911

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1 service. Reasonable costs may include expenses directly
2 associated with the planning phases and training of personnel in
3 any new and emerging technologies involving [~~enhanced~~] 911[-]
4 services. All other expenses necessary to operate the public
5 safety answering point, including but not limited to those
6 expenses related to overhead, staffing, and other day-to-day
7 operational expenses, shall continue to be paid through the
8 general funding of the respective counties."

9 2. By amending subsection (c) to read:

10 "(c) Each communications service provider may request
11 reimbursement from the fund of [~~enhanced~~] 911 service costs
12 incurred; provided that the costs:

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

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

20 3. By amending subsection (e) to read:

21 "(e) After the expenses of the board are paid, the public
22 safety answering points shall be allocated two-thirds of the

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1 remaining balance of the fund. The remaining one-third shall be
2 available for communications service provider cost
3 recovery. The board shall determine the reimbursement amounts
4 for the public safety answering points, based on the limitations
5 set forth in section 138-5(a). The reimbursement level for each
6 communications service provider shall be limited:

7 (1) To one-third of the total contribution made by the
8 individual communications service provider into the
9 fund; provided that this method of direct
10 reimbursement shall not be available to the provider
11 of wire line [~~enhanced~~] 911; and

12 (2) As provided in subsection (c)."

13 SECTION 7. Section 138-7, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) During any period in which [~~an enhanced~~] a 911
16 surcharge is imposed upon customers, the board may request an
17 audited report prepared by an independent certified public
18 accountant that demonstrates that the request for cost recovery
19 from public safety answering points and communications service
20 providers recovers only costs and expenses directly related to
21 the provision of [~~enhanced~~] 911 service as authorized by this
22 chapter. The cost of the audited reports shall be considered

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1 expenses of the board. The board shall prevent public
2 disclosure of proprietary information contained in the audited
3 report, unless required by court order or appropriate
4 administrative agency decision."

5 SECTION 8. Section 138-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§138-9 **Limitation of liability.** (a) Notwithstanding any
8 law to the contrary, in no event shall any communications
9 service provider, reseller, independent, third-party accounting
10 firms, consultants, or other third party retained by the State
11 under section 138-2, or their respective employees, directors,
12 officers, assigns, affiliates, or agents, except in cases of
13 gross negligence or wanton and wilful misconduct, be liable for
14 any civil damages or criminal liability resulting from death or
15 injury to a person or from damage to property incurred by any
16 person in connection with any act or omission in developing,
17 designing, adopting, establishing, installing, participating in,
18 implementing, maintaining, or providing access to [enhanced] 911
19 or any other communications service intended to help persons
20 obtain emergency assistance. In addition, no communications
21 service provider, reseller, independent, third-party accounting
22 firms, consultants, or other third party retained by the State

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1 under section 138-2, or their respective employees, directors,
2 officers, assigns, affiliates, or agents shall be liable for
3 civil damages or criminal liability in connection with the
4 release of customer information to any governmental entity,
5 including any public safety answering point, as required under
6 this chapter.

7 (b) In no event shall any public safety answering point,
8 or its employees, assigns, or agents, or emergency response
9 personnel, except in cases of gross negligence or wanton and
10 wilful misconduct, be liable for any civil damages or criminal
11 liability resulting from death or injury to the person or from
12 damage to property incurred by any person in connection with any
13 act or omission in the development, installation, maintenance,
14 operation, or provision of [enhanced] 911 [~~service-~~] services."

15 SECTION 9. Section 269-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "basic exchange service"
17 to read:

18 "Basic exchange service" means those services consisting
19 of single-line dial tone, touch-tone dialing, access to operator
20 service, access to [enhanced] 911[~~-~~] services,
21 telecommunications relay service, telephone directory, and
22 access to directory-assistance service via 411 dialing."

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1 SECTION 10. Section 269-16.95 is amended to read as
2 follows:

3 "§269-16.95 **Emergency telephone service; capital costs;**
4 **ratemaking.** (a) A public utility providing local exchange
5 telecommunications services may recover the capital cost and
6 associated operating expenses of providing a statewide
7 [enhanced] 911 emergency telephone service in the public
8 switched telephone network, through:

9 (1) A telephone line surcharge; or

10

11 (2) Its rate case.

12

13 (b) Notwithstanding the commission's rules on ratemaking,
14 the commission shall expedite and give highest priority to any
15 necessary ratemaking procedures related to providing a statewide
16 [enhanced] 911 emergency telephone service; provided that the
17 commission may set forth conditions and requirements as the
18 commission determines are in the public interest.

19 (c) The commission shall require every public utility
20 providing statewide [enhanced] 911 emergency telephone service
21 to maintain a separate accounting of the costs of providing [an
22 enhanced] a 911 emergency service and the revenues received from
23 related surcharges until the next general rate case. The
24 commission shall further require that every public utility

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1 imposing a surcharge shall identify such as a separate line item
2 on all customer billing statements.

3 (d) This section shall not preclude the commission from
4 changing any rate, established pursuant to this section, either
5 specifically or pursuant to any general restructuring of all
6 telephone rates, charges, and classifications."

7 SECTION 11. Sections 138-3, 138-4, 138-6, 138-8, 138-10,
8 138-12, 128A-13, and 269E-12, Hawaii Revised Statutes, are
9 amended by substituting the word "911," or similar term,
10 wherever the word "enhanced 911," or similar term, appears, as
11 the context requires.


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

14 SECTION 13. This Act shall take effect upon its approval.

15

16

INTRODUCED BY:



17

BY REQUEST

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Report Title:

911 Services; 911 Board; Public Utilities Commission;
Definitions

Description:

Deletes the term "enhanced" in reference to 911 services to allow funding of all 911 technologies. Allows the 911 Board to employ staff, in addition to the executive director, exempt from chapters 76 and 89, HRS.

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

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

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

PURPOSE: To delete the term "enhanced" in reference to 911 services to allow funding of all 911 technologies. To allow the 911 Board to employ staff, in addition to the executive director, exempt from chapters 76 and 89, Hawaii Revised Statutes (HRS).

MEANS: Amends section 76-16(b), HRS, section 128A-13, HRS, the title of chapter 138, section 138-1, the title and subsections (a), (e), (h), and (i) of section 138-2, section 138-3, section 138-4, and subsections (a), (c) and (e) of section 138-5, sections 138-6, 138-7(a), 138-8, 138-9, 138-10, 138-12, 269-1, 269-16.95, and 269E-12, HRS.

JUSTIFICATION: The term "enhanced" in reference to 911 services refers to a particular technology developed more than twenty years ago that allowed display of the caller's telephone identification and location. Since then, technology has evolved with improvements in services and changes in terminology, rendering the term "enhanced" outdated. Chapter 138, HRS, identifies the 911 services and the funding as specifically for "enhanced" 911, which limits the ability of the 911 Board to use funding to upgrade to technologies beyond "enhanced" 911 technology. Across the nation, states are in the process of upgrading their 911 services to "Next Generation" technology. Future 911 technologies similarly will have different identifying common names as they are developed. Deletion of the term "enhanced" from chapter 138, HRS, will allow the 911 Board to fund the public safety answering points' upgrade to the latest 911 technologies regardless of the common name of such technologies.

Allowing the 911 Board to employ both the executive director and staff, exempt from chapters 76 and 89, HRS, will allow the Board to obtain much needed administrative support without delay.

Impact on the public: Allows funding for the latest technologies in 911 services, for the safety and welfare of all residents of and visitors to the State.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGS 891

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.