

ACT 66

H.B. NO. 2339

A Bill for an Act Relating to 911 Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the technology for 911 services is continually evolving, resulting in changing terminology to describe the technology. Twenty years ago, the term “enhanced” for 911 services referred to the

new technology at that time, which allowed identification of the caller's telephone number as well as the location of the caller. Across the nation, states are now in the process of implementing "next generation" 911 technology containing significant advances to the "enhanced" 911 technology. However, chapter 138, Hawaii Revised Statutes, identifies 911 services in the State as "enhanced" 911 services and restricts funding solely for "enhanced" 911 services, preventing the State from using funding for future 911 technologies. Deletion of the term "enhanced" will allow continued funding for the most up-to-date 911 services, which is critical for the safety and well-being of all people residing in or visiting the State.

The legislature also finds that under existing law, the 911 board may employ an executive director who is exempt from chapters 76 and 89, Hawaii Revised Statutes, to carry out the responsibilities under chapter 138, Hawaii Revised Statutes, however, the 911 board is not allowed to employ staff exempt from these chapters.

The purpose of this Act is to:

- (1) Delete the term "enhanced" in reference to 911 services to allow funding of all 911 technologies; and
- (2) Allow the 911 board to employ staff, in addition to the executive director, who are exempt from chapters 76 and 89, Hawaii Revised Statutes, the State's civil service and collective bargaining laws.

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

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

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, and no more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) (A) Positions filled by inmates, patients of state institutions, and persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers

under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; two additional deputies in charge of the law enforcement programs, administration, or other functions within the department of law enforcement as may be assigned by the director of law enforcement, with the approval of the governor; three additional deputies each in charge of the correctional institutions, rehabilitation services and programs, and administration or other functions within the department of corrections and rehabilitation as may be assigned by the director of corrections and rehabilitation, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;

- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that ~~not~~ no more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii National Guard youth and adult education programs;
- (27) In the Hawaii state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
- (28) Administrative appeals hearing officers in the department of human services;
- (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
- (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, security and privacy compliance analyst, information technology implementation manager, assistant information technology implementation manager, resource manager, community/project development director, policy director, special assistant to the director, and limited English proficiency project manager/coordinator;
- (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;
- (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance;
- (33) The executive director and seven full-time administrative positions of the school facilities authority;
- (34) Positions in the Mauna Kea stewardship and oversight authority;
- (35) In the office of homeland security of the department of law enforcement, the statewide interoperable communications coordinator; ~~and~~
- (36) In the social services division of the department of human services, the business technology analyst~~[-]; and~~
- (37) The executive director and staff of the 911 board.

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

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

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

**“CHAPTER 138
[Enhanced] 911 SERVICES”**

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

1. By adding two new definitions to be appropriately inserted and to read:

“911 fund” or “fund” means the special fund established by section 138-3.
“911 service costs” means all capital, nonrecurring, and recurring costs directly related to the implementation, operation, and administration of 911 services.”

2. By amending the definitions of “automatic location identification”, “automatic number identification”, and “board” to read:

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

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

“Board” means the ~~[enhanced]~~ 911 board established under this chapter.”

3. By amending the definition of “911 system” to read:

“911 system” means an emergency communications system that:

- (1) Enables the user of a voice communications service connection such as telephone, computer, or commercial mobile radio service, Interconnected Voice over Internet Protocol service or a data communications service connection that transmits data exclusively, such as text messaging, to reach a public safety answering point by accessing 911, or via a service/relay bureau or accessing a 911 system through some other means; and
- (2) Provides ~~[enhanced]~~ for public safety answering point dispatch and response 911 ~~[service.] services.”~~

4. By amending the definition of “proprietary information” to read:

“Proprietary information” means customer lists and other related information (including the number of customers), technology descriptions, technical information, or trade secrets, and the actual or developmental costs of ~~[enhanced]~~ 911 service that are developed, produced, or received internally by a communications service provider or by a provider’s employees, directors, officers, or agents.”

5. By repealing the definitions of “enhanced 911 fund” and “enhanced 911 service costs”.

[~~“Enhanced 911 fund” or “fund” means the special fund established by section 138-3.~~

~~“Enhanced 911 service costs” means all capital, nonrecurring, and recurring costs directly related to the implementation, operation, and administration of enhanced 911 services.”]~~

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

1. By amending its title and subsection (a) to read:

“§138-2 [Enhanced] 911 board. (a) There [is] shall be created within the department of accounting and general services, for administrative purposes, [an enhanced] a 911 board consisting of thirteen voting members; provided that the membership shall consist of:

- (1) The chief information officer or the chief information officer’s designee;
- (2) Three representatives from wireless communications service providers, who shall be appointed by the governor as provided in section 26-34;
- (3) One representative each from the public safety answering points for Oahu, Hawaii, Kauai, Maui, and Molokai and one representative, chosen by the mayor of the city and county of Honolulu, who shall be appointed by the governor as provided in section 26-34;
- (4) The consumer advocate or the consumer advocate’s designee;
- (5) One representative from a communications service company that offers Interconnected Voice over Internet Protocol services, who shall be appointed by the governor as provided in section 26-34; and
- (6) One representative of the public utility providing telecommunications services and land line [enhanced] 911 services through section 269-16.95.”

2. By amending subsection (e) to read:

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

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

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

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

- (1) Create reports, make payments into the fund, process checks, and make distributions from the fund, as directed by the board and as allowed by this chapter; and
- (2) Perform administrative duties necessary to administer the fund or oversee operations of the board, including providing technical advisory support; provided that no employee, third-party accounting firm, consultant, or other third party hired to perform these administrative duties may be retained if the employee, accounting firm, consultant, or other third party, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any entity subject to the provisions of this chapter.”

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

1. By amending subsection (a) to read:

“(a) Every public safety answering point shall be eligible to seek disbursements from the fund to pay for the reasonable costs to lease, purchase, or maintain all necessary equipment, including computer hardware, software, and database provisioning, required by the public safety answering point to provide technical functionality for the [enhanced] 911 service. Reasonable costs may

include expenses directly associated with the planning phases and training of personnel in any new and emerging technologies involving [enhanced] 911[-] services. All other expenses necessary to operate the public safety answering point, including but not limited to those expenses related to overhead, staffing, and other day-to-day operational expenses, shall continue to be paid through the general funding of the respective counties.”

2. By amending subsection (c) to read:

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

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

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

3. By amending subsection (e) to read:

“(e) After the expenses of the board are paid, the public safety answering points shall be allocated two-thirds of the remaining balance of the fund. The remaining one-third shall be available for communications service provider cost recovery. The board shall determine the reimbursement amounts for the public safety answering points, based on the limitations set forth in section 138-5(a). The reimbursement level for each communications service provider shall be limited:

- (1) To one-third of the total contribution made by the individual communications service provider into the fund; provided that this method of direct reimbursement shall not be available to the provider of wire line [enhanced] 911; and
- (2) As provided in subsection (c).”

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

“(a) During any period in which [an enhanced] a 911 surcharge is imposed upon customers, the board may request an audited report prepared by an independent certified public accountant that demonstrates that the request for cost recovery from public safety answering points and communications service providers recovers only costs and expenses directly related to the provision of [enhanced] 911 service as authorized by this chapter. The cost of the audited reports shall be considered expenses of the board. The board shall prevent public disclosure of proprietary information contained in the audited report, unless required by court order or appropriate administrative agency decision.”

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

“§138-9 **Limitation of liability.** (a) Notwithstanding any law to the contrary, in no event shall any communications service provider, reseller, or independent[-] third-party accounting firms, consultants, or other third party retained by the State under section 138-2, or their respective employees, directors, officers, assigns, affiliates, or agents, except in cases of gross negligence or wanton and wilful misconduct, be liable for any civil damages or criminal liability resulting from death or injury to a person or from damage to property incurred by any person in connection with any act or omission in developing, designing, adopting, establishing, installing, participating in, implementing,

maintaining, or providing access to [enhanced] 911 or any other communications service intended to help persons obtain emergency assistance. In addition, no communications service provider, reseller, or independent[;] third-party accounting firms, consultants, or other third party retained by the State under section 138-2, or their respective employees, directors, officers, assigns, affiliates, or agents, shall be liable for civil damages or criminal liability in connection with the release of customer information to any governmental entity, including any public safety answering point, as required under this chapter.

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

SECTION 9. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of “basic exchange service” to read as follows:

““Basic exchange service” means those services consisting of single-line dial tone, touch-tone dialing, access to operator service, access to [enhanced] 911[;] services, telecommunications relay service, telephone directory, and access to directory-assistance service via 411 dialing.”

SECTION 10. Section 269-16.95, Hawaii Revised Statutes, is amended to read as follows:

“§269-16.95 Emergency telephone service; capital costs; ratemaking.

(a) A public utility providing local exchange telecommunications services may recover the capital cost and associated operating expenses of providing a statewide [enhanced] 911 emergency telephone service in the public switched telephone network, through:

- (1) A telephone line surcharge; or
- (2) Its rate case.

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

(c) The commission shall require every public utility providing statewide [enhanced] 911 emergency telephone service to maintain a separate accounting of the costs of providing [an enhanced] a 911 emergency service and the revenues received from related surcharges until the next general rate case. The commission shall further require that every public utility imposing a surcharge shall identify such as a separate line item on all customer billing statements.

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

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

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

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

(Approved June 21, 2024.)