

RODERICK K. BECKER Comptroller

> AUDREY HIDANO Deputy Comptroller

STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF RODERICK K. BECKER, COMPTROLLER DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE ON THURSDAY, MARCH 23, 2017 2:05 P.M CONFERENCE ROOM 329

S.B. 887, S.D. 2, H.D. 1

RELATING TO ENHANCED 911 SERVICES.

Chair Takumi, Vice Chair Ichiyama, and members of the Committee, thank you for the opportunity to provide testimony on S.B. 887, S.D. 2, H.D. 1. The Department of Accounting and General Services (DAGS) supports the measure for the following reasons:

1. This bill will create parity between postpaid and prepaid cellular phone customers. It is estimated that approximately 10% to 20% of cellular phone customers use prepaid cellular phones. Although the prepaid cellular phone customers benefit from the use of the enhanced 911 features, they are currently exempt from the \$0.66/month per line surcharge. As a result, postpaid cellular phone customers subsidize the prepaid cellular phone customers' portion of the cost for the acquisition, implementation and maintenance of hardware and software that provide enhanced 911 functionality.

DAVID Y. IGE GOVERNOR 2. Approximately 38 states and the District of Columbia have enacted legislation to assess 911 call surcharges on prepaid cell phone customers.

Thank you for the opportunity to testify on this measure.



RODERICK K. BECKER Comptroller

> AUDREY HIDANO Deputy Comptroller

STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY OF COURTNEY TAGUPA, EXECUTIVE DIRECTOR ENHANCED 911 BOARD TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE ON THURSDAY MARCH 23, 2017 2:05 P.M. CONFERENCE ROOM 329

S.B. 0877, S.D. 2, H.D.1

RELATING TO ENHANCED 911 SERVICES

SB887, SD2, HD1 requests a 1.5% surcharge on prepaid wireless communications for parity purposes with the current 66 cents surcharge on monthly postpaid wireless communications that supports the statewide E911 program as it keeps pace with rapidly expanding wireless communications since the program's enactment, 13 years ago.

We support SB887, SD2, HD1 as our vehicle to establish the 1.5% surcharge on prepaid wireless communications services, having been amended for technical language and enactment date.

Thank you for your support throughout this public process.

DAVID Y. IGE GOVERNOR



TODD NACAPUY CHIEF INFORMATION OFFICER

STATE OF HAWAI'I OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

P.O. BOX 119, HONOLULU, HI 96810-0119 Ph: (808) 586-6000 | Fax: (808) 586-1922 ETS.HAWAII.GOV

Testimony of TODD NACAPUY Chief Information Officer, State of Hawaiʻi

Before the

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Thursday, March 23, 2017; 2:05 p.m. State Capitol, Conference Room 329

SENATE BILL NO. 887, S.D. 2, H.D. 1 RELATING TO ENHANCED 911 SERVICES

Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

I am Todd Nacapuy, Chief Information Officer (CIO) of the State of Hawai'i, as a member of the Enhanced 911 Board testifying in **support** of Senate Bill No. 887, S.D. 2, H.D. 1, Relating to Enhanced 911 Services.

The Enhanced 911 Fund supports 911 dispatch services that summon police, fire and emergency medical services provided by the City and counties. Every telephone user, except those using prepaid wireless phones, now pays a monthly surcharge of 66 cents that goes into this fund to help State and local governments deploy new technologies in serving and protecting the public. Using this fund, Hawai'i was among the first states to adopt Text-to-911 and to start planning for Next Generation 911 services.

This bill will close the loophole that exempts prepaid wireless phone users from paying their share. We believe these surcharges should be imposed equitably for all phone users who may call and benefit from 911 services across the State.

Thank you for this opportunity to testify in support of this measure.

DAVID Y. IGE GOVERNOR POLICE DEPARTMENT

CITY AND COUNTY OF HONOLULU

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

KIRK CALDWELL MAYOR



LOUIS-M.K.SALOHA. CHIEF

CARY OKIMOTO JERRY INOUYE DEPUTY CHIEFS

OUR REFERENCE WB-AS

March 23, 2017

The Honorable Roy M. Takumi, Chair and Members Committee on Consumer Protection and Commerce House of Representatives Hawaii State Capitol 415 South Beretania Street, Room 329 Honolulu, Hawaii 96813

Dear Chair Takumi and Members:

SUBJECT: Senate Bill No. 887, SD2, HD1, Relating to Enhanced 911 Services

I am William Baldwin, Major of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 887, SD2, HD1, Relating to Enhanced 911 Services, with the suggested amendment to set the unspecified prepaid wireless enhanced 911 surcharge at 1.5 percent.

This bill provides a fair and equitable contribution to the funding of the 911 system. Currently, prepaid wireless consumers are exempt from paying the 1.5 percent 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. 887, SD2, HD1, with the suggested amendment.

Thank you for the opportunity to testify.

APPROVED:

Cary Okimoto Acting Chief of Police

Sincerely,

William Baldwin, Major Communications Division

Serving and Protecting With Aloha



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

March 23, 2017



TIVOLI S. FAAUMU CHIEF OF POLICE

DEAN M. RICKARD DEPUTY CHIEF OF POLICE

The Honorable Roy M. Takumi, Chair The Honorable Linda Ichiyama, Vice Chair And Members of the Committee on **Consumer Protection and Commerce**

The House of Representatives State Capitol Honolulu, Hawaii 96813

RE: Senate Bill No. 887, Senate Draft 2, House Draft 1, **RELATING TO ENHANCED 911 SERVICES**

Dear Chair Takumi and Members of the Committee:

The Maui Police Department supports S.B. 887, S.D. 2, H.D. 1

This bill would provide funding to the Enhanced 911 Services through a surcharge collected at the time of purchase of prepaid wireless cellular phones. This surcharge is, as you know, a program that exists for contract cellular phone service providers.

Not only will this increase the funding for the Enhanced 911 Services, it will put the prepaid wireless cellular consumers who also use 911 services on track with current contract wireless users. This will insure the services are charged to the consumer fairly and equally across the board for both users of contract wireless and prepaid wireless cellular phones.

The Maui Police Department asks that you support Senate Bill No. 887, S.D. 2, H. D. 1.

Sincerely,

TIVOLI S. FAAUMU

Chief of Police

WRITTEN TESTIMONY OF DAVLYNN RACADIO, SESD MAUI POLICE DEPARTMENT To The COMMITTEE ON CONSUMER PROTECTION AND COMMERCE ON Thursday, March 23, 2017 2:05 PM Conference Room 329

SB 887, SD2, HD1

RELATING TO ENHANCED 911 SERVICES

Chair Roy Takumi, Vice Chair Linda Ichiyama and Committee Members, thank you for the opportunity to provide testimony on Senate Bill 887.

I am Davlynn Racadio, a Communications Supervisor at the Maui Police Department. I am testifying in strong support of SB 887.

The surcharge of 1.5 percent of a prepaid wireless service would assist all Public Safety Answering Points (PSAPs or 9-1-1 Communications Centers) in the State of Hawaii. With the recent statewide implementation of Text To 9-1-1, public safety technology is advancing at a high rate of speed and the PSAPs need to be able to keep up with it. Next Generation 9-1-1 or NG9-1-1, will give the State of Hawaii the ability to have Text to 9-1-1, pictures and video streaming sent to the PSAPs. With the exception of Text, pictures and videos are in our future.

But it takes funding to pay for this. The surcharge collected goes to the PSAPs in the State of Hawaii from the Enhanced 9-1-1 Fund. They are our primary source of funding and the expectation of the public is that when they call 9-1-1, someone is there to answer, locate them, and send the support that is needed almost simultaneously.

There will be an added work flow from the sellers, there is no question on that. But I am respectfully asking you to look beyond that work to see how the surcharge will be helping the State of Hawaii. Not just some of us but the entire State. 9-1-1 audio or text calls are answered every day in our State. Maui County alone receives an average of 10,000 calls (with text call) a month.

I am humbly requesting your support for this measure. The services of each 9-1-1 Center is there for anyone who presses the numbers or sends text message.

Respectfully,

Davlynn Racadio, SESD Maui Police Department Communications Section Davlynn.racadio@mpd.net Office: 808-244-6338

From:	mailinglist@capitol.hawaii.gov
Sent:	Tuesday, March 21, 2017 1:27 PM
То:	CPCtestimony
Cc:	dean.rickard@mpd.net
Subject:	Submitted testimony for SB887 on Mar 23, 2017 14:05PM

<u>SB887</u>

Submitted on: 3/21/2017 Testimony for CPC on Mar 23, 2017 14:05PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Rickard	Maui Police Department	Support	No

Comments: The Maui Police Department - Molokai PSAP strongly supports SB 887, with its purpose being to impose an established prepaid wireless E911 surcharge per retail transaction, which basically eliminates the exemption for prepaid wireless connections. We believe this legislation as written will provide fairness and equity amongst consumers of wireless communication devices, and further contribute to the additional revenue for the enhanced 911 (E911) services and to ensure funds are utilized to incorporate, deploy and maintain newer, faster, and more efficient wireless communication technology. Furthermore, the Public Safety Answering Points (PSAP) must continuously upgrade equipment to take advantage of the increasing capabilities of these devices, as well as, meet the public expectations for the technology movement towards the Next Generation 911, which will allow the PSAP to receive text, photo, and video messages from wireless devices. Given the importance of the E911 system to all members of our community, the Maui Police Department urges you to support SB 887. Thank you for the opportunity to testify. DEAN M. RICKARD Deputy Chief Maui Police Department Molokai PSAP

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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March 21, 2017

Honorable Roy M. Takumi Chair, House Committee on Consumer Protection & Commerce Hawaii State Capitol Room 320 Honolulu, HI 96813

Honorable Linda Ichiyama Vice Chair, House Committee on Consumer Protection & Commerce Hawaii State Capitol Room 327 Honolulu, HI 96813

RE: Support Senate Bill 887 SD2 HD1 – 9-1-1 Prepaid Surcharge

Dear Chair Takumi and Vice Chair Ichiyama:

On behalf of CTIA, the trade association for the wireless communications industry, I am writing to express our support for Senate Bill 887 SD2 HD1, related to the imposition of the 9-1-1 surcharge on prepaid wireless services. We are supportive of the bill as amended with the 9-1-1 prepaid fee at 1.5% at the point-of-sale. CTIA supports a 1.5% assessment, as it is equivalent to the amount that postpaid customers currently pay. This creates equity between postpaid and prepaid wireless customers.

CTIA and the wireless industry are strong supporters of the public safety community and believe a fullyfunded 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 those 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, 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 38 states and the District of Columbia.

In closing, CTIA supports equity amongst prepaid and postpaid wireless consumers. In order to reach that end-result, we are supportive of Senate Bill 887 SD2 HD1.

Thank you for the opportunity to submit testimony.

Sincerely,

Bethanne Cotley

Bethanne Cooley Director, State Legislative Affairs CTIA

States Trending Toward Point-of-Sale Collection of E911 Taxes and Fees on Prepaid



¹Wisconsin: Police and fire protection fee at POS ²West Virginia: Sales tax in lieu of 911 fee

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. 887, S.D. 2, H.D. 1

March 23, 2017 2:05 p.m. CR 329

To: Chairman Roy M. Takumi and the House Committee on Consumer Protection and Commerce:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to S.B. 887, S.D.2, H.D. 1 relating to Enhanced 911 Services. This opposition is specifically as to the liability provision.

S.B. 887, S.D.2, H.D. 1 is essentially a tax measure which was drafted to close a loophole regarding Enhanced 911 special fund surcharges on prepaid wireless communication devices. However, the measure also includes an immunity provision in subsection (k) on page 4 which appears unrelated to its purpose of properly funding Enhanced 911 services.

It does not appear that there has been any testimony in prior hearings addressing the need or justification for immunity or supporting its passage as part of this measure. All testimony in support of this measure has focused on the need to properly fund Enhanced 911 services and the equitable allocation of funding to prepaid wireless communications devices. Thus, immunity does not appear to be an important element of this measure. Our objection to subsection (k) at page 4, line 7, regarding liability is that it does not appear to be justified or take into account a provider acting recklessly or negligently in connection with 911 services. We are not aware of any problem involving frivolous lawsuits against carriers in connection with 911 services. Indeed, the news periodically reports instances where 911 calls have been grossly mishandled resulting in unnecessary harm or death. It is in the public interest that 911 services be handled with reasonable care to promote the public safety function that 911 services provide. No immunity should be granted without a compelling reason – let alone the broad absolute immunity included in this measure. Public safety requires no less. For these reasons, we ask that you delete subsection (k) from the bill.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.



3610 Waialae Ave Honolulu, HI 96816 P: (808) 592-4200 E: tyamaki@rmhawaii.org

TESTIMONY OF TINA YAMAKI PRESIDENT RETAIL MERCHANTS OF HAWAII March 23, 2017

Re: SB887 SD2 HD1 RELATING TO ENHANCED 911 SERVICES

Good afternoon Chair Takumi and members of the House Committee on Consumer Protection and Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

The Retail Merchants of Hawaii acknowledges the importance being able to access the 911 service during an emergency from a land line or mobile device. However, we are STRONGLY OPPOSED to SB 887 SD2 HD1 Relating to Enhanced 911 Services. This measure essentially places an additional 1.5% tax on prepaid wireless services like prepaid international calling cards/services that many purchase to call friends and family in Japan and the Philippines at the point of sale. Unfortunately this **proposed surcharge is a tax that is aimed at those on a fixed income and the financially challenged like the elderly** - who are the specific niche market that uses prepaid cell services.

We would also like to note that the E911 Board ended 2016 with an unencumbered cash balance of

over \$15 million. In addition, in 2010 the Legislature took \$16 million from the E911 Board and put it towards the General Fund. The monies in this measure should be placed under the Dept of Taxation where there is oversight. We cannot help but wonder why is the E911 Board going after small businesses and those who are financially challenged when they have a surplus of funds.

The most harmful consequence of this new tax guised as a surcharge will be on our smaller retailers who are already operating on a thin margin as the cost to implement this new "tax" can be substantial. The 3% of the 1.5% that the retailers would be able to retain is not enough to cover the administrative costs.

- \$5,000 \$10,000 per unit for a new Point of Sales (POS) system or an upgrade to their existing antiquated system to handle this new surcharge would include the terminals, the computer hardware and software.
- Upwards of \$140 per hour for an IT specialist to program and install the updates on all of the individual terminals and input all of the new SKU/barcode numbers into the system so that the various denominations of pre-paid phone services are recognized and the proper surcharge tax could be levied. This would not be included in their original service contract as it is a NEW TAX.
- Additional monthly average charge of \$100 per hour for a bookkeeper or \$250 per hour for a CPA. The time and cost would be higher for those retailers who have cash registers that don't itemize purchases (shows only the price but not what the item is – like a adding machine tape), as accountants would have to go line by line purchase by purchase to highlight out the Prepaid Wireless Services purchased as

well as fill out the necessary reports and paperwork associated with maintaining accurate records, and preparing and submitting the returns and payments.

We would also like to point out that really are no \$5 or \$10 prepaid services as most start around the \$20 level, so there technically is no exemption. Furthermore on regular landline and monthly cellphone charges, the E911 surcharge tax is a flat 66 cents with the retailer retaining 2 cents. For prepaid services:

Prepaid Service	Customer Charged	Retailer Retain	E911 Board Retains	Note
\$25	37 cents	1 cent	36 cents	29 cents less than landline & monthly service
\$50	75 cents	2 cents	73 cents	9 cents more than landline & monthly service
\$75	\$1.12	3 cents	99 cents	46 cents more than landline & monthly service

We do not believe that the E911 Board will be bringing in \$1.12 million in surcharge revenue that they expect as they are basing their numbers on national averages. Retailers are constantly seeing a surge of online purchasing and this would include prepaid wireless services. If customers are purchasing services online, they can circumvent having to pay taxes and surcharges while enjoying free shipping. We also question what type of enforcement will be in place and how will they enforce this if they don't know who all are selling the services? Under the current bill there is also no enforcement component. E911 Board in a previous hearing has indicated that are unsure who is all selling prepaid services in Hawaii.

The 3% the retailers could retain is not enough to cover the costs involved. As a result, this additional costs of doing business will be passed on and shared by all consumers, thus driving up the cost of living in Hawaii. Those on a fixed income like the elderly who do not qualify for public assistance may be burdened the most. To absorb the cost of implementing this surcharge, an increase in prices throughout the store may be seen on items that include but are not limited to rice, spam, milk and toilet paper to name a few.

Government mandates like this one also has the potential to force some of these small locally owned businesses to close, leaving people out of work. Or we will see businesses no longer selling prepaid wireless services.

We respectful ask that your consideration NOT to add greater burden to our cost of doing business or our cost of living, and urge you to hold this measure. Mahalo for this opportunity to testify.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Impose enhanced 911 surcharge on prepaid phones

BILL NUMBER: SB 887, HD-1

INTRODUCED BY: House Committee on Intrastate Commerce

EXECUTIVE SUMMARY: Imposes an enhanced 911 surcharge on prepaid phones. This is seen as a way to close a loophole in existing law.

BRIEF SUMMARY: Adds a new section to HRS chapter 138 to provide that an enhanced 911 surcharge of 1.5% shall be imposed as a one-time charge on prepaid wireless telecommunications services. 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.

Conforming amendments are made to sections 138-3 and 138-4.

EFFECTIVE DATE: July 1, 2090.

STAFF COMMENTS: The measure as originally introduced was sponsored by the Department of Accounting and General Services as AGS-03 (17).

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 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. Perhaps lawmakers should 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 fair rate as well.

As a technical matter, we note that of the definitions in section 2 of the bill, several use the term "commercial mobile radio service" but only the definition of "wireless telecommunications

Re: HB 206 Page 2

service" links that term to the federal definition in 47 CFR §20.3. The definitions may be improved by using the term "wireless telecommunications service" instead of "commercial mobile radio service" in the other definitions ("consumer," "provider," "retail transaction," and "seller").

Digested 3/21/2017

From:	mailinglist@capitol.hawaii.gov
Sent:	Tuesday, March 21, 2017 4:22 PM
То:	CPCtestimony
Cc:	John.Jakubczak@mpd.net
Subject:	*Submitted testimony for SB887 on Mar 23, 2017 14:05PM*

<u>SB887</u>

Submitted on: 3/21/2017 Testimony for CPC on Mar 23, 2017 14:05PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
John Jakubczak	Individual	Support	No

Comments:

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Sent:	Tuesday, March 21, 2017 10:59 AM
То:	CPCtestimony
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Subject:	*Submitted testimony for SB887 on Mar 23, 2017 14:05PM*

<u>SB887</u>

Submitted on: 3/21/2017 Testimony for CPC on Mar 23, 2017 14:05PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Gausepohl	Individual	Support	No

Comments:

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