

STAND. COM. REP. NO. 234

Honolulu, Hawaii

Feb 13, 2009

RE: H.B. No. 984  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, &  
Military Affairs, to which was referred H.B. No. 984 entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY,"

begs leave to report as follows:

The purpose of this bill is to establish a high-speed  
communications infrastructure in Hawaii that will increase access  
to the information superhighway and enhance our ability to compete  
in the global economy. This bill implements key recommendations  
of the Hawaii Broadband Task Force by, among other things:

- (1) Consolidating regulation of cable and telecommunications  
providers in a new chapter of the Hawaii Revised  
Statutes, under a Hawaii Communications Commissioner  
(Commissioner);
- (2) Requiring the Commissioner to:
  - (A) Develop a comprehensive policy to ensure equitable  
access to high quality telecommunications services  
at reasonable rates;
  - (B) Develop programs and initiatives to facilitate the  
deployment of and access to broadband in Hawaii;
  - (C) Advocate the State's broadband, telecommunications,  
and video programming distribution policies and



interests before federal, State and local government; and

- (D) Maintain close working relationships with community groups, industry, and other stakeholders to ensure the State's interests and concerns are understood;
- (3) Allowing the Commissioner to fully or partially exempt telecommunications carriers from regulation, and to examine rate regulation alternatives including incentive regulation to increase broadband competition, availability, and affordability;
- (4) Establishing a work group to investigate and recommend procedures to streamline and expedite regulatory, franchising, and permitting for broadband services and technology; and
- (5) Requiring the Legislative Reference Bureau to review Hawaii statutes on broadband technology, telecommunications, and related subjects, and recommend conforming amendments and those that facilitate implementation of the new chapter.

The Department of Commerce and Consumer Affairs (DCCA), DCCA Cable Television Division, DCCA Division of Consumer Advocacy, High Technology Development Corporation, Akaku: Maui Community Television, and OLELO supported this bill. Hawaiian Telcom supported the intent of the measure. The Legislative Reference Bureau, University of Hawaii, Public Utilities Commission, and Verizon commented on the bill.

Your Committee finds that this bill should give the Hawaii Communications Commissioner the ability to make policy decisions independent of DCCA, and to speak directly with the Legislature and other government decision makers. Further, your Committee believes that this bill should continue to give public, educational, or governmental (PEG) access organizations meaningful access to cable and broadcast channels and the ability to bring unique local, new, or unpopular ideas to the attention of the public.



Your Committee has adopted certain provisions of a similar bill, H.B. No. 1077, in this measure, as well as amendments requested by PEG access organizations by:

- (1) Establishing a Hawaii Communications Commission (Commission) administratively attached to the Department of Commerce and Consumer Affairs;
- (2) Combining the definition of "access organization" with the definition of "PEG access organization" and adding production training to the services provided by PEG access organizations;
- (3) Specifying that section 26-34, Hawaii Revised Statutes (HRS), does not apply to the number of terms and consecutive number of years a person may be appointed as Commissioner;
- (4) Amending the Commission's telecommunications development duties to:
  - (A) Require the Commission no later than July 1, 2010, to investigate the extent to which residential and business telecommunications services are available from multiple providers and whether to reclassify these services as "fully competitive";
  - (B) Provide that the Commission's plans for broadband deployment may include measures to streamline broadband service provider access to public rights-of-way and facilities and related permitting and approval processes, encourage sharing of private infrastructure, and require sharing of public infrastructure; and
  - (C) Provide that Commission programs to facilitate broadband deployment and access may include programs to construct infrastructure that can be shared by competing broadband service providers;
- (5) Providing that penalties collected by the Commission shall be deposited in the Hawaii Communications Commission (HCC) Special Fund, instead of the general fund;



- (6) Requiring the Commission to keep confidential, proprietary and commercially sensitive information from a telecommunications carrier, cable operator, PEG access organization, or other person;
- (7) Including as permissible uses of the moneys in the HCC Special Fund, the operation of programs developed by the Commission to:
  - (A) Develop and construct or encourage the development and construction of broadband infrastructure; and
  - (B) Make broadband capable services available to low income and disadvantaged persons;
- (8) Amending the ratemaking provisions of the chapter by:
  - (A) Specifying that 30 days' notice is required for changes in rates, fares, charges, classifications, schedules, rules, or practices; and
  - (B) Exempting from the 30-day notice requirement, changes that constitute an increase in service without a corresponding increase in any rate, fee, or charge;
- (9) Reducing the regulatory fee for telecommunications carriers from .3 percent to .25 percent;
- (10) Providing that if the Commission imposes additional fees on telecommunications carriers this must be done by rule pursuant to chapter 91, HRS;
- (11) Amending the cable system provisions by:
  - (A) Increasing from three to seven, the number of television channels and video streams that are to be designated by cable operators for PEG access organization use and requiring these channels to be of not less than equal value to the television channels;
  - (B) Requiring cable operators to designate up to ten percent of the total bandwidth capacity for PEG use as directed by the Commission by rule applying to all franchises uniformly; and



- (C) Requiring cable operators to designate ten percent of total channel or bandwidth capacity for lease by third parties at reasonable rates for common carrier use in addition to PEG access organization use as determined by the Commission by rule applying to all franchises uniformly;
- (12) Funding the new Commission by:
- (A) Transferring 50 percent of moneys collected by the PUC from telecommunications carriers into the HCC Special Fund;
  - (B) Transferring the unencumbered balance as of June 30, 2009, in the Cable Television Division subaccount in the Compliance Resolution fund into the HCC Special Fund; and
  - (C) Appropriating unspecified amounts out of the HCC Special Fund for fiscal years 2009-2010 and 2010-2011 for the Commission, including staff;
- (13) Requiring up to an additional ten general funded positions to be transferred and funded from the HCC Special Fund in addition to the eight positions to be transferred by DCCA and the PUC to the Commission;
- (14) Requiring the Commission not later than July 1, 2010, to begin to implement the recommendations of the working group formed under the Act to streamline broadband regulatory franchising and permitting procedures; and
- (15) Charging the Commission, instead of the Legislative Reference Bureau, with reviewing Hawaii laws relating to broadband and related subjects, and recommending amendments to conform these laws to the new Hawaii Communications Commission Law, or to facilitate implementation of that law.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with



the intent and purpose of H.B. No. 984, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 984, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Revitalization, Business, &  
Military Affairs,



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ANGUS L.K. MCKELVEY, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

**HSCR 234**

**Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs**

Bill/Resolution No.: <b>HB 984</b>	Committee Referral: <b>EBM, CPC, FIN</b>	Date: <b>2/10/2009</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. BERG, Lyla B.	✓			
4. EVANS, Cindy	✓			
5. MANAHAN, Joey				✓
<del>6. TAKAI, K. Mark</del>				
7. TOKIOKA, James Kunane				✓
8. TSUJI, Clift	✓			
9. WAKAI, Glenn				✓
10. WOOLEY, Jessica	✓			
11. WARD, Gene	✓			
TOTAL <b>(11)</b>	<b>7</b>			<b>3</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
<b>Distribution:</b> Original (White) – Committee              Duplicate (Yellow) – Chief Clerk's Office              Duplicate (Pink) – HMSO				