

STAND. COM. REP. NO.

353

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1680

S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Economic Development and Technology and
Commerce and Consumer Protection, to which was referred S.B.
No. 1680 entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY,"

beg leave to report as follows:

The purpose of this measure is to establish a Hawaii
Communications Commission in the Department of Commerce and
Consumer Affairs to implement the recommendations of the Hawaii
Broadband Task Force.

This measure also transfers telecommunication functions from
the Public Utilities Commission and cable services functions from
the Department of Commerce and Consumer Affairs to the Hawaii
Communications Commission. In addition, this measure establishes
a work group to report to the Legislature and to develop
procedures to streamline state and county broadband regulation,
franchising, and permitting processes.

Testimony in support of this measure was submitted by the
University of Hawaii, the Department of Commerce and Consumer
Affairs, the Department of Business, Economic Development and
Tourism, the Department of Budget and Finance, the High Technology
Development Corporation, Hawaiian Telcom, Oceanic Time Warner
Cable, Olelo, Akaku Maui Community Television, Hawaii Wildlife
Fund, and one concerned individual. Testimony in opposition of
this measure was submitted by Time Warner Telecom. Comments on
this measure were submitted by Legislative Reference Bureau and

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Verizon. Written testimony presented to the Committees is available for review on the Legislature's website.

Your Committees find that this measure establishes the policy framework for the State of Hawaii to pursue high-speed broadband deployment as critical infrastructure for the State's economic recovery and future competitiveness. The goals and purposes set forth in this measure reflect the visionary perspective among Hawaii Broadband Task Force members, presenters, and participants to help Hawaii achieve broadband capability comparable to the world's leaders within a measurable time frame. Your Committees also find that consolidating regulatory, permitting, and advocacy functions into a single, one-stop agency will position Hawaii to take best advantage of federal broadband initiatives proposed by President Obama and those being debated within the United States Congress this year.

In response to testifiers who expressed concerns that specific language in this measure may be in areas preempted by federal telecommunications regulation, your Committees emphasize that the purpose of consolidating regulations over telecommunications and broadband deployment in Hawaii is to streamline or remove unwieldy regulatory requirements, while being mindful of the interplay between federal and state regulation and the competitive marketplace.

The measure before us represents a first step toward reconciling competing interests, stakeholders, and multiple layers of government requirements as Hawaii seeks to retool its regulatory structure to take advantage of the new federal emphasis on incorporating broadband infrastructure into our nation's economic recovery.

Given the unprecedented economic challenges facing Hawaii, we are heartened that the American Recovery and Reinvestment Act of 2009 offers several opportunities to help the State identify areas that may be underserved or unserved within its rural communities, and enhance broadband connectivity between Hawaii, the mainland and Asia-Pacific nations. As noted by United States Senator Daniel Inouye in a September, 2008 Congressional hearing, ". . . Broadband matters because broadband communications have become the great economic engine of our time. Broadband deployment drives opportunities for business, education, and healthcare. It provides widespread access to information that can change the way we communicate with one another and improve the quality of our



lives . . . By some estimates, universal broadband adoption would add \$500 billion to the United States economy and create more than a million new jobs. . . . Add to this hundreds of millions of dollars in savings through e-government and telemedicine initiatives and untold riches we can reap by tapping the genius of web-based entrepreneurs in every corner of this country. The case for better broadband is clear."

Your Committees have amended this measure by:

- (1) Replacing the name Hawaii Communications Commissioner with Hawaii Broadband Commissioner;
- (2) Clarifying the goals of the new entity in promoting shared infrastructure to speed implementation and reduce underlying costs to providers through incentives as opposed to eminent domain procedures;
- (3) Establishing the Hawaii Broadband Commissioner as an independent agency that is attached to the Department of Commerce and Consumer Affairs for administrative purposes only;
- (4) Revising Part II, Telecommunications, section -38, of the new Hawaii Broadband Commissioner chapter, to not require the incumbent local telecommunications exchange carrier to obtain approval or provide any cost support or other information to establish or otherwise modify in any manner its rates, fares, and charges or to bundle any service offerings into a single or combined pricing package;
- (5) Providing for a six month transition period for incumbent local exchange carrier regulation by the Public Utilities Commission to assist the transfer to the Hawaii Broadband Commissioner;
- (6) Deleting subsections (b) through (h) of Part II, Telecommunications, section -38 of the new Hawaii Broadband Commissioner chapter;
- (7) Increasing the number of PEG channels that the cable operator shall designate for public, educational, or governmental use from three or more channels to five or more channels;



- (8) Establishing a contracting process between the Hawaii Broadband Commissioner and PEG access organizations that will protect First Amendment rights and provide for an orderly process for public input and review during contract renewals;
- (9) Exempting PEG access organizations from the State procurement laws;
- (10) Adding a new section 23 to the measure that includes an amendment to section 269-16, Hawaii Revised Statutes relating to the Public Utilities Commission's power to regulate utility rates, to reflect the transfer of authority and certain rate to the Broadband Commissioner;
- (11) Providing for the transfer of funds from the public utilities commission special fund and cable television subaccount to the Hawaii broadband commission special fund to provide appropriations for the new Broadband Commissioner;
- (12) Providing for the transfer of four existing positions in the Cable Television Division and ten positions in the Department of Commerce and Consumer Affairs to the new Broadband Commissioner for its operations, where those costs are to be paid out of existing cable television franchise fees and Public Utilities Commission fees for transfers;
- (13) Clarifying the function of the Broadband Commissioner's work group to streamline permitting functions applicable to development of broadband services or broadband technology;
- (14) Revising the members of the work group established by the Hawaii Communications Commission to include only state and county members;
- (15) Changing the effective date to July 1, 2050, to promote further discussions on various segments of this measure; and



- (16) Making technical, nonsubstantive amendments for the purpose of clarity.

Your Committees also thank members of the task force for an outstanding effort in bringing together many diverse interests, such as the telecommunication and cable television industries, the State's Executive Branch, business industry leaders, and numerous tech industry resource individuals. For additional information on broadband resources and best practices of other jurisdictions utilized by the Hawaii Broadband Task Force, please go to <http://www.hbtf.org>.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1680, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1680, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Economic
Development and Technology and
Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair

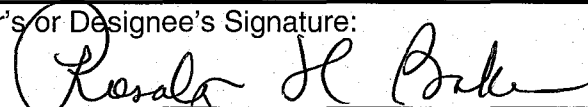


CAROL FUKUNAGA, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* SB 1680	Committee Referral: EDT/CPN, WAM	Date: 2-13-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
HEE, Clayton				✓
IGE, David Y.	✓			
SLOM, Sam	✓			
TOTAL	4	-	-	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

