

STAND. COM. REP. NO. 610

Honolulu, Hawaii

Feb 20, 2009

RE: H.B. No. 984  
H.D. 3

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

Sir:

Your Committee on Consumer Protection & Commerce, to which  
was referred H.B. No. 984, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY,"

begs leave to report as follows:

The purpose of this measure is to implement recommendations  
of the Hawaii Broadband Task Force to develop the State's  
broadband access and infrastructure.

Specifically, this measure:

- (1) Establishes the Hawaii Communications Commission and the  
Hawaii Communications Commissioner within the Department  
of Commerce and Consumer Affairs;
- (2) Transfers regulatory functions relating to  
telecommunications providers from the Public Utilities  
Commission to the Hawaii Communications Commission;
- (3) Transfers regulatory functions relating to cable  
operators from the Department of Commerce and Consumer  
Affairs to the Hawaii Communications Commission.
- (4) Authorizes the Hawaii Communications Commission to  
designate one public, educational, or governmental (PEG)  
access organization in each county, establishes terms  
for PEG access organization services, and requires the



Hawaii Communications Commission to assess maximum access fees permitted under federal law to fund PEG access organizations;

- (5) Establishes the Hawaii Communications Commission Special Fund to be administered by the Hawaii Communications Commission, to fund the operations of the Hawaii Communications Commission;
- (6) Provides that penalties collected by the Hawaii Communications Commission shall be deposited in the Hawaii Communications Commission Special Fund, instead of the general fund;
- (7) Requires the Public Utilities Commission and the Department of Commerce and Consumer Affairs to each transfer four positions to service the Hawaii Communications Commission and requires up to ten additional general funded positions to be transferred to the Hawaii Communications Commission and funded from the Hawaii Communications Commission Special Fund;
- (8) Requires the Hawaii Communications Commission to convene a work group to develop procedures for streamlined regulatory, franchising, and permitting for broadband service and technology and requires the work group to report its findings to the Legislature no later than January 1, 2010;
- (9) Requires the Hawaii Communications Commission to begin implementing the recommendations of the working group by July 1, 2010; and
- (10) Requires the Hawaii Communications Commission to review Hawaii laws relating to broadband and related subjects, and recommend amendments of these laws to conform to the new Hawaii Communications Commission law, or to facilitate implementation of that law.

Akaku: Maui Community Television, 'Olelo Community Television, High Technology Development Corporation, and one concerned individual testified in support of this measure. Oceanic Time Warner Cable and TW Telecom testified in opposition to this measure. The Department of Commerce and Consumer Affairs, Department of Human Resources Development, Public Utilities Commission, University of Hawaii, Verizon Communications, Hawaiian



Telcom, International Brotherhood of Electrical Workers, and PBS Hawaii submitted comments on this measure.

Your Committee finds that this measure will enable the provision of widespread affordable broadband access for Hawaii. Your Committee further finds that expanded broadband access will facilitate greater economic opportunities for the State. However, your Committee has concerns with provisions of the bill that may have detrimental effects on ratepayers or on other state departments. Your Committee is also concerned that the provisions of this measure that establish PEG access organizations, PEG service requirements, and PEG access fees may unnecessarily increase costs for cable subscribers while eliminating funds available for other public television services.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that Chapter 269, Hawaii Revised Statutes (the Public Utilities Commission law), will apply to telecommunications carriers and telecommunications common carriers until July 1, 2009, when the Hawaii Communications Commissioner is sworn in and assumes authority;
- (2) Authorizing the Public Utilities Commission to continue to exercise its authority until July 1, 2010, over telecommunications carriers and telecommunications common carriers with regard to proceedings begun prior to July 1, 2009;
- (3) Deleting sections -68, -69, and -70 relating to PEG access organizations, PEG services, and PEG access fees in section 2 of this measure;
- (4) Deleting section -14(d) in section 2 of this measure that establishes notice requirements for PEG access organization designation hearings;
- (5) Deleting the requirement that the Public Utilities Company transfer four positions to serve the Hawaii Communications Commission; and
- (6) Making technical amendments for the purposes of clarity, consistency, and style.



Upon further consideration, your Committee finds that the term "broadband" encompasses many other applications than internet access. Therefore, your Committee recommends that later committees hearing this measure consider expanding the definition of "broadband" found in section -1 of section 2 of this measure, to reflect the various applications and technologies that broadband may include. In addition, your Committee finds that this undertaking provides opportunities to receive and use federal economic stimulus funds. Your Committee, therefore, recommends that later committees hearing this measure consider amendments that allow for the use of federal stimulus funds to expand broadband access in the State.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 984, H.D. 2, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 984, H.D. 3.

Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



---

ROBERT N. HERKES, Chair



