

Honolulu, Hawaii

April 29, 2011

RE: H.B. No. 1342
H.D. 1
S.D. 2
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1342, H.D. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to expedite the deployment of broadband infrastructure by:

- (1) Temporarily exempting actions relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology (broadband infrastructure development) from county permitting requirements and state permitting and approval requirements, under certain conditions; and
- (2) Establishing that no person or entity shall be required to upgrade or replace an existing utility pole when using



that utility pole to install new or improve existing telecommunications cables, under certain conditions.

Your Committee on Conference finds that the implementation of broadband technology is critical to improving the productivity of various sectors of our economy. Your Committee on Conference finds that the exemptions from certain permitting requirements contained in this measure represent an important step in promoting investment in broadband infrastructure in Hawaii.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that broadband infrastructure development shall be exempt from Public Utilities Commission (PUC) rules under Hawaii Administrative Rules, Chapter 6-73;
- (2) Making the permitting and approval exemptions for broadband infrastructure development not applicable in the event that such permitting and approval are required by federal law or are necessary to protect eligibility for federal funding;
- (3) Specifying as a condition for the permitting and approval exemptions for broadband infrastructure development that the development be directly related to the improvement of existing telecommunications cables or the installation of new telecommunications cables:
 - (A) On existing or replacement utility poles and conduits; and
 - (B) Using existing infrastructure and facilities;
- (4) Requiring a person or entity to use reasonable best efforts to comply with all applicable safety and engineering requirements related to the broadband infrastructure development;
- (5) Requiring a person or entity taking any action relating to broadband infrastructure development to provide notice, at least thirty days before the action, to the Director of Commerce and Consumer Affairs (Director), with certain exceptions;



- (6) With respect to the prohibition on requiring upgrade or replacement of utility poles:
 - (A) Deleting the condition that the overall weight load on the utility pole shall not exceed maximum utility pole safe weight capacities established by the PUC and the Federal Communications Commission;
 - (B) Clarifying the condition that the overall weight load and the diameter of the attachment on the utility pole following the installation or improvement shall not exceed the overall weight load and diameter of the attachment prior to the installation or improvement;
 - (C) Clarifying that the new installation or improvement of telecommunication cables shall not cause the utility pole to be less safe or reliable;
 - (D) Clarifying that the PUC may allow a public utility to recover all prudently incurred costs through rates, charges, or clauses approved or established by PUC, and specifying that recovery of all prudently incurred costs shall apply to a broadband service provider; and
 - (E) Establishing requirements for a utility in cases where the utility denies a written request for access to a utility pole;
- (7) With respect to the review and reporting requirements, deleting the provision specifying that the Director consult with the Cable Television Administrator (Administrator);
- (8) In lieu of the Administrator, making the Director the chair and a member of the Broadband Assistance Advisory Council and the convenor and a member of the broadband working group;
- (9) Changing its effective date to July 1, 2011; and
- (10) Making technical, nonsubstantive amendments for style, clarity, and consistency.



As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1342, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1342, H.D. 1, S.D. 2, C.D. 1.

Respectfully submitted on behalf of the managers:

ON THE PART OF THE SENATE


ON THE PART OF THE HOUSE



 CAROL FUKUNAGA, Chair



 ANGUS L.K. MCKELVEY, Co-Chair



 WILL ESPERO, Co-Chair



 ROBERT N. HERKES, Co-Chair



 ROSALYN H. BAKER, Co-Chair



 KYLE T. YAMASHITA, Co-Chair



