

NEIL ABERCROMBIE  
GOVERNOR



GLENN M. OKIMOTO  
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STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 16, 2011

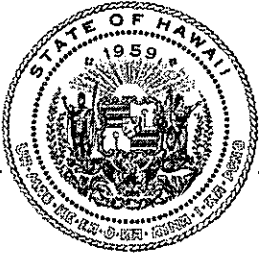
TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 1342, H.D. 1

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

We support the intent of this bill but with concerns.

This bill proposes to exempt the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology. We would recommend adding the requirement that any work within the Highways Division right-of-way still requires the entity to obtain the Highway Permit under Section 264-6, HRS. This would provide the Highways Division to not only track the additional infrastructure in our right-of-way, but to also review the traffic control plans for the installation.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
INTERIM DIRECTOR

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Statement of  
**RICHARD C. LIM**  
Interim Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**  
Wednesday, February 16, 2011  
2:05 p.m.  
State Capitol, Conference Room 325

in consideration of  
**HB1342, HD1**  
**RELATING TO TELECOMMUNICATIONS**

Chair Herkes, Vice Chair Yamane and Members of the Committee on Consumer Protection & Commerce.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of this bill. We would fully support the bill if the mechanics of the permitting exemption can be worked out to the satisfaction of the affected parties.

Based on the recommendations of the broadband working group created by Act 199, Sessions Laws of Hawaii 2010, DBEDT is working in partnership with other state agencies to develop a comprehensive strategy to advance broadband capabilities in Hawaii. A key part of this strategy will undoubtedly be to address the current permitting situation.

Thank you for the opportunity to provide these comments.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
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KEALI'I S. LOPEZ  
DIRECTOR

EVERETT S. KANESHIGE  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Date: February 16, 2011  
Time: 2:05 p.m.

**TESTIMONY ON H.B. 1342, H.D. 1 - RELATING TO TELECOMMUNICATIONS**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Glen Chock, and I am the Acting Cable Television Administrator, Department of Commerce and Consumer Affairs (the "**Department**"). The Department appreciates the opportunity to provide written testimony in support for this measure.

Under Act 199, Session Laws of Hawai'i 2010, the Department's Cable Television Division ("**CATV**") was required to convene a work group to discuss and develop procedures to streamline the State and County permitting process for broadband services. CATV's then Cable Administrator chaired the work group meetings and the work group met four times in 2010. By inviting private wired and wireless broadband providers to share their experiences, the work group gained an overview appreciation of the many permitting and approval obstacles at the State and County levels that impede the expeditious deployment of broadband infrastructure. The work group then turned more specifically to the challenges faced by telecommunications providers when they attempt to attach new fiber cables to existing utility poles. The work group, to the best of our knowledge, did not come up with any procedures to streamline the permitting process.

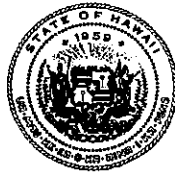
H.B. 1342, H.D. 1 exempts broadband providers when installing, improving, constructing or developing infrastructure relating to broadband service or broadband technology from county and state permitting and approval requirements. The Department supports the intent of this measure since it would temporarily remove one

of the biggest obstacles hindering further deployment of broadband service to all parts of the State.

H.B. 1342, H.D. 1 also eliminates the requirement that a person or utility upgrade or replace an existing utility pole when using that pole to install new or improved existing telecommunications cables provided that the weight load on the pole is not increased and the overall weight on the utility pole does not exceed maximum weight capacities established by the Hawai'i Public Utilities Commission and Federal Communications and Commission. Again, the Department believes that this is the right step forward and will greatly assist broadband providers as they attempt to advance broadband services in the State

Thank you for the opportunity to testify on H.B. 1342, H.D. 1.

NEAL ABERCROMBIE  
GOVERNOR OF HAWAII



GARY L. HOOSER  
INTERIM DIRECTOR

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**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**HB 1342, RELATING TO TELECOMMUNICATIONS**

**Testimony of Gary Hooser  
Interim Director of the Office of Environmental Quality Control**

**February 16, 2011**

1 **Office's Position:** The Office of Environmental Quality Control supports the general intent of  
2 HB1342 in providing for the exemption of telecommunications infrastructure from the  
3 requirements of Chapter 343, however we are in opposition to the Bill as it is unnecessary and  
4 circumvents the existing exemption process.

5 **Fiscal Implications:** There are no immediate fiscal impacts to the office of OEQC or the State  
6 budget.

7 **Purpose and Justification:** Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative  
8 Rules, currently already allows for exempting projects in the right-of-way, providing that the  
9 project does not result in significant adverse environmental impacts.

10 So while OEQC supports the intent of HB 1342, we are opposed to the piece meal  
11 approach of amending Chapter 343, HRS. More importantly, OEQC feels that creating  
12 individual exemptions by statute is not in the best interest of environmental protection. An  
13 appropriate and efficient process currently exists via the office of the OEQC and the  
14 Environmental Council for the review and exemption of projects described in HB 1342.

15 Thank you for the opportunity to testify.

**HB 1342 HD1**  
**RELATING TO TELECOMMUNICATIONS**  
**HAWAIIAN TELCOM**

**February 16, 2011**

Chair Herkes and members of the House Consumer Protection and Commerce Committee:

Hawaiian Telcom supports HB 1342 HD1 - "RELATING TO TELECOMMUNICATIONS."

Hawaiian Telcom appreciates the work of the Legislature and the Permits Work Group for spearheading efforts to advance the deployment of our state's broadband infrastructure by streamlining the governmental permit process. Our company wholeheartedly supports exempting broadband infrastructure improvements from state or county permit requirements for five years and encourages the committee to consider making such a change permanent.

Advanced broadband services are essential infrastructure for an innovation economy and a knowledge society in the 21<sup>st</sup> century. As we are all aware, broadband deployment drives opportunities for business, education, and healthcare. One national study estimated the positive economic impact of advanced broadband in Hawaii at \$578 million per year. Passage of this aggressive and forward-looking measure will be a positive step in aligning Hawaii's policy objectives with governmental regulations that encourage rather than discourage greater investment in broadband infrastructure.

For all of the reasons set forth above, Hawaiian Telcom supports HB 1342 HD1.

Thank you for the opportunity to provide comments.

## **COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

Representative Robert A. Herkes, Chair  
Representative Ryan I. Yamine, Vice Chair

Wednesday, February 16, 2011 / 2:00 PM Conference Room 325

### **Testimony IN SUPPORT of HB1342 RELATING TO TELECOMMUNICATIONS**

My name is Jay April, I am President and CEO of Akaku: Maui Community Television. As a community anchor institution that has been providing state of the art communications and media training to Maui residents for nearly twenty years and as a recent recipient of \$132,000 in federal stimulus funds to bring broadband adoption skills to Hawaii's youth in rural areas of Maui Nui, Akaku: Maui Community Television, strongly endorses HB1342,HD1

Availability of ubiquitous and affordable broadband has become essential to the nation's economic prosperity, national security, and the personal success of its residents. In addition to private sector commercial providers, more than 400 communities across this nation have begun to develop community based broadband options allowing municipal broadband networks to blossom around the country. HB1342 will help streamline delivery of broadband services for everyone and will provide the added benefit of removing barriers to healthy broadband competition with incumbent telephone and cable companies.

HB1342 combined with complimentary state broadband planning and a recently announced federal reform and re-direct of Universal Service Funds to broadband development in rural areas could foster a rural broadband strategy that could:

1. Include implementation of equitable wireless and wire line broadband media access for isolated communities.
2. Engage Akaku as a community anchor training institution and high speed information utility in remote locations as a partner with libraries and schools.
3. Provide broadband infrastructure, priority support and community technology training where service is substandard or unavailable; and,
4. Provide media literacy and access to media tools to existing non-profit organizations serving indigenous populations in remote rural areas.

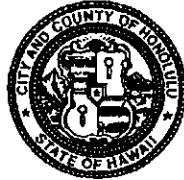
While we have much more to do before we can accomplish all the worthy goals of this broadband initiative, HB1342 is an important first step in making sure the infrastructure can be put in place to bring all Hawaii residents into a digitally inclusive future.

Thank you for the opportunity to testify before you today.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 16, 2011

The Honorable Robert N. Herkes, Chair  
and Members of the Committee on Consumer  
Protection & Commerce  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Herkes and Members:

**Subject: House Bill No. 1342, HD1  
Relating to Telecommunications**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1342, HD1.

While we recognize the intent of what the bill is trying to achieve, the permitting process provides a very essential function to ensure efficient and safe construction when these lines, as well as other utility lines, are installed. Bypassing this essential function in the interest of expediting deployment of broadband telecommunications places other interests at potential risk.

County ministerial permitting requirements include entitlement for permittees. In our view, ministerial permitting is a vital process, as it:

1. Supports public safety, convenience, and general interest by:
  - a. Establishing accountability and responsibility. Permittees are held accountable and responsible for their work. This is especially important when permit inspections reveal substandard work or damages. Without permits, there would be no means to pursue enforcement.
  - b. Enabling proper maintenance and restoration of affected infrastructure. Regular inspections of permitted work by the county are critical not only to final restoration of infrastructure, but also to daily, temporary repairs on streets and sidewalks. Without permits, immediate attention to potentially hazardous situations by the responsible parties would be hampered.



The Honorable Robert N. Herkes, Chair  
and Members of the Committee on Consumer  
Protection & Commerce  
House of Representatives  
Re: House Bill No. 1342, HD1  
February 16, 2011  
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- c. Providing documentation and records. If broadband companies were to proceed without county permits, there would be no record of their presence in city rights-of-way. Permitting records are usually utilized as a source of information about existing site conditions, including existing lines, on Construction Plans (CP). The absence of this information would increase the chances that the broadband companies' lines would be disturbed or damaged by construction in a city right-of-way.
2. Protects public facilities. In addition to permit inspections, permit procedures include engineering reviews of potential impacts and appropriate remedies to affected roadways, sidewalks, and other improvements on the surface, as well as to underground utilities. Public facilities would be exposed to problems such as open and sunken trenches, leaking pipelines, and unknown damages should permits not be required.
3. Enhances coordination among users. Users include the county, utility companies, contractors, and the general public. Without permits, there would be no notices of upcoming work, no conflict checks, no way to address complaints or inquiries, and no traffic control.

The bill, if amended, should include language stating that the city shall not be responsible or held liable for unapproved improvements placed in city rights-of-way or unauthorized modifications to our rights-of-way by the broadband companies.

The bill, if amended, should also include language requiring broadband companies to indemnify, hold harmless, and defend the counties against any claims arising from any and all work or negligence without permits for their work and facilities in the public rights-of-way.

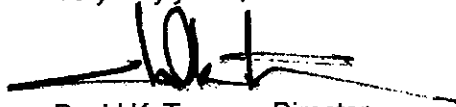
Having gone through several streamlining efforts at reducing the time required to permit public and private construction projects, our experience is that there are other areas in the development process that have extra "fat" that could be cut to speed up project delivery. We will be happy to work with the telecommunications companies to expedite their projects through the permitting process, but exempting broadband projects from obtaining various permits would jeopardize public safety and could add extra costs to projects.

In conclusion, we respectfully request that the aforementioned concerns and suggested amendments be considered.

The Honorable Robert N. Herkes, Chair  
and Members of the Committee on Consumer  
Protection & Commerce  
House of Representatives  
Re: House Bill No. 1342, HD1  
February 16, 2011  
Page 2

Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a horizontal line underneath it.

David K. Tanoue, Director  
Department of Planning and Permitting

DKT:jmf

hb1342hd1-Telecomm-mf.doc



February 15, 2011

Honorable Robert Herkes, Chair  
House Committee on Consumer Protection & Commerce

**RE: HB 1342 HD1 - Relating to Telecommunications**  
CPC Committee – February 16, 2011, Conference Room 325, 2:05 PM

Aloha Chair Herkes, Vice Chair Yamane, and members of the Committee:

*Comments*

I am Lyndall Nipps, Vice President of Regulatory Affairs for tw telecom (“TWTC”), which has operated in Hawaii since 1994, providing voice, Internet and data networking, and managing nearly 25,000 access lines to state and local governments, military, and businesses in the State. Thank you for the opportunity to present testimony on HB 1342 HD1.

Section 3 of the bill addresses issues relating to when a person or entity that wishes to install or replace telecommunications cables on a utility pole is required to replace or upgrade a pole. twtc appreciates the efforts to address this issue, as twtc frequently encounters delays in deploying its facilities while a determination is made as to whether the pole owner will allow us to install or replace cables. However, the biggest issue that twtc faces in installing or replacing cables is the length of time it takes for the owner of a pole, typically the electric utility or Hawaiian Telcom, to inform us whether they will allow us to install or replace cables. The bill provides that a pole owner cannot require a person to upgrade or replace a pole if, among other things, the overall weight load on the utility pole does not exceed maximum utility pole safe weights. However, it does not address the issue of the length of time it typically takes for the pole owner to make this determination. twtc respectfully requests that this committee consider addressing that issue in this bill.

Sincerely,  
/s/  
Lyndall Nipps  
Vice President, Regulatory Affairs

tw telecom  
(AZ, CA, CO, HI, ID, NM, OR, UT, WA)  
Office: (619) 822-0480  
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# **Testimony before the House Committee On Consumer Protection & Commerce**

**By Paul A. Nakagawa  
Superintendent, Planning Division  
Construction and Maintenance Department  
Hawaiian Electric Company, Inc.**

**February 16, 2011**

**House Bill 1342, H.D. 1  
Relating to Telecommunications**

Chair Herkes, Vice Chair Yamane, and Members of the Committee:

My name is Paul Nakagawa and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company in support of HB 1342, HD 1.

HB 1342, HD 1 seeks to expedite the deployment of high-speed broadband technology in Hawaii by exempting construction of broadband infrastructure from certain permitting requirements.

We appreciate the work of the House Committee on Economic Revitalization & Business, which incorporated our proposed amendment to include the safe weight capacities established by Hawaii Public Utilities Commission (PUC) in this bill. The inclusion of the PUC amendment will ensure that the engineering and safety standards that Hawaiian Electric and its subsidiaries currently comply with are kept in place.

Thank you for the opportunity to testify on this matter.



**Testimony to the House Committee on Consumer Protection & Commerce  
Wednesday, February 16, 2011; 2:05 p.m.  
Conference Room 325  
Hawaii State Capitol**

**RE: HOUSE BILL 1342 HD1 RELATING TO TELECOMMUNICATIONS**

Chair Herkes, Vice Chair Yamane and the Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") supports HB 1342 HD1.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The measure exempts broadband infrastructure improvements from state or county permitting requirements for five years. The bill also exempts telecommunications companies from replacing existing utility poles when installing new or improving existing telecommunications cables. Effective July 1, 2112.

Broadband applications and services are essential to spurring investment and innovation in business, education, health care, entertainment, government, and almost every other sector in Hawaii's economy, and the demand is constantly growing. The State of Hawaii, however, is among the slowest in the nation in broadband speeds. Therefore, it is critical that investments are made in broadband infrastructure so that Hawaii can become more competitive in the national and global marketplace. This measure is the first step in the right direction in achieving this goal.

Thank you for the opportunity to provide testimony.