

Honolulu, Hawaii

Feb 10, 2012

RE: H.B. No. 2524
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Economic Revitalization & Business, to which was referred H.B. No. 2524 entitled:

"A BILL FOR AN ACT RELATING TO THE REGULATION OF
TELECOMMUNICATIONS AND CABLE TELEVISION SERVICES,"

begs leave to report as follows:

The purpose of this measure is to further the State's effort to implement the Hawaii Broadband initiative by:

- (1) Establishing the Communications Division within the Department of Commerce and Consumer Affairs;
- (2) Establishing the Office of Communications Commissioner to head the Communications Division and to be responsible for the development of the State's communications programs and services;
- (3) Transferring certain regulatory functions related to telecommunications from the Public Utilities Commission to the Communications Division;
- (4) Authorizing the Communications Commissioner to issue and regulate cable franchises;
- (5) Making provisions for a transition period from the current regulatory structure to that provided in this measure; and



- (6) Making conforming amendments to existing statutes.

The Office of the Governor; Department of Commerce and Consumer Affairs; Department of Business, Economic Development, and Tourism; and Public Utilities Commission testified in support of this measure. tw telecom of hawaii Ip supported the intent of this measure. The State Procurement Office and Verizon opposed this measure. The Department of Human Resources Development, AT&T, Oceanic Time Warner Cable, Hawaiian Electric Company, Hawaii Electric Light Company, Maui Electric Company, and Hawaiian Telcom provided comments.

Your Committee has amended this measure by:

- (1) Removing provisions that would have established a Consumer Advocate position within the Communications Division;
- (2) Clarifying that the Communications Commissioner may also conduct investigations on a person acting or engaging in business as a telecommunications carrier without a franchise or charter enacted or granted by the legislative or executive authority of the State or its predecessor governments;
- (3) Clarifying that the arbitration that may be required by the Communications Commissioner as a form of alternative dispute resolution be non-binding;
- (4) Clarifying that the regulatory fee charged by the Communications Commissioner be used for the administration of telecommunication regulatory duties of the Communications Division and not be subject to recoupment by a carrier through a surcharge imposed on consumers;
- (5) Specifying that certain confidential and proprietary information contained in telecommunications carriers' annual reports remain confidential to the Communications Commissioner;
- (6) Clarifying certain references to basic exchange services with regard to ratemaking and the Commissioner's



authority to allow pricing flexibility for certain services;

- (7) Removing the requirement that the Communications Commissioner receive the results of certain federal and state audits;
- (8) Deleting provisions relating to the issuance of securities, issuance of voting stock, acquirement of stock of another telecommunications carrier, and the merger and consolidation of telecommunications carriers;
- (9) Removing the authorization that would have allowed certain fees paid to the Public Utilities Commission as directed by the Communications Commissioner to be used for administrative costs of the Public Utilities Commission;
- (10) Removing references to local exchange service providers with regard to the receipt of subsidies;
- (11) Removing references to broadband service providers with regard to contributions for the universal service program;
- (12) Clarifying certain references to telecommunications carriers and telecommunications common carriers and specifying that certain public utilities fees not apply to those carriers;
- (13) Clarifying provisions relating to the transfer of functions between the Public Utilities Commission, Department of Commerce and Consumer Affairs, and the Communications Commissioner;
- (14) Specifying that telecommunications carriers and telecommunications common carriers not be public utilities subject to regulation by the Public Utilities Commission;
- (15) Changing the effective date to July 1, 2112, to facilitate further discussion; and
- (16) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Economic Revitalization & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2524, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2524, 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,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: HB 2524	Committee Referral: ERB, CPC, FIN/LING	Date: 2/9/12		
<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)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	X			
2. CHOY, Isaac W. (VC)	X			
3. AWANA, Karen L.	X			
4. BROWER, Tom	X			
5. EVANS, Cindy	X			
6. HASHEM, Mark J.	X			
7. NISHIMOTO, Scott Y.				X
8. TOKIOKA, James Kunane				X
9. TSUJI, Clift	X			
10. MARUMOTO, Barbara C.	X			
11. PINE, Kymerly Marcos	X			
TOTAL (11)	9	—	—	2
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:				
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