

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 2524
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Economic Development and Technology and Commerce and Consumer Protection, to which was referred H.B. No. 2524, H.D. 2, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to establish a three-member Telecommunications and Cable Television Services Commission within the Department of Business, Economic Development, and Tourism and to consolidate the regulation of telecommunications carriers and cable operators in the State under this Commission.

Your Committees received testimony in support of this measure from the Office of the Governor; Department of Business, Economic Development, and Tourism; and Department of Commerce and Consumer Affairs. Your Committees received testimony in opposition to this measure from one individual. Your Committees received comments on this measure from the Department of Human Resources Development; Public Utilities Commission; State Procurement Office; AT&T Services, Inc.; CTIA-The Wireless Association; Hawaiian Electric Company, Inc.; Hawaiian Telcom; and TW Telecom of Hawaii.

Your Committees find that, while laudatory, this measure appears to be somewhat premature in the extent to which it would consolidate the regulation of telecommunications carriers and



cable operators in the State. Your Committees note many concerns raised by those who have testified on this measure and its companion throughout the legislative process. For example, it may not be appropriate for one entity to regulate Hawaii's telecommunications carriers and cable operators, or to do so within the same statutory framework. Your Committees further find that, if the existing statewide cable regulatory framework serves as a positive model, then perhaps the new statutory framework for telecommunications should use the same approach under a new commission, with the Department of Commerce and Consumer Affairs Cable Television Division continuing the regulation of cable companies.

However, your Committees also consider that the real challenge in streamlining telecommunications regulation is to remove impediments such as permit processing and access requirements. Addressing this issue may be more effective if telecommunications and cable regulation are under one agency, in order to achieve the ultimate objective of accelerating broadband deployment throughout the State. Your Committees anticipate there will be a number of other concerns that require similar review in order to achieve an effective regulatory balance.

Your Committees commend the Governor, the Department of Commerce and Consumer Affairs, and Public Utilities Commission for their willingness to begin the process of streamlining the regulation of the State's telecommunications carriers and cable operators, and the many stakeholders for their insistence that such a substantial undertaking be done in a manner that benefits the people of Hawaii. Your Committees urge the Department of Commerce and Consumer Affairs and Public Utilities Commission to continue to collaborate with these stakeholders and, where appropriate, to use the services of third-party consultants on some of the issues that should be thoroughly evaluated in the streamlining effort, such as whether wireless services should be statutorily deregulated as proposed by some of the testifiers. In addition, your Committees urge the parties' consideration of best practices from other jurisdictions and other actions that have helped to speed up broadband deployment.

Your Committees have amended this measure to address these and other concerns by deleting its contents and replacing them with language to:



- (1) Establish a two-member Communications Commission within the Department of Commerce and Consumer Affairs, with the members to be appointed by the Governor as provided in section 26-34, Hawaii Revised Statutes;
- (2) Direct the Communications Commission to develop and update comprehensive policies and recommendations for administrative and statutory changes to further the deployment of broadband services; promote the interests of the State; and provide incentives, expedite procedures, and establish policies to increase investment in and further the deployment of broadband infrastructure within the State;
- (3) Require the Communications Commission to work with other governmental entities and stakeholders to develop at least two demonstration projects that expedite permitting processes to provide access to public rights-of-way and public facilities for the construction of broadband infrastructure, including the State of Hawaii's broadband technology and opportunities program grant, and a private sector application for state and county permits;
- (4) Require that no later than January 1, 2013, the Communications Commission shall develop and submit to the Legislature:
 - (A) A status report on the outcomes of the demonstration projects to expedite permitting processes for the construction of broadband infrastructure; and
 - (B) Recommended legislation to streamline regulation of telecommunications carriers and cable operators in the State under the Communications Commission and this measure by January 1, 2014.
- (5) Appropriate funds out of the cable television division subaccount in the compliance resolution fund established under section 26-9(o), Hawaii Revised Statutes, to carry out the purposes of this measure, including the hiring of one full-time attorney, one full-time office assistant, and two full-time commissioners; and



(6) Insert an effective date of July 1, 2012.

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 H.B. No. 2524, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2524, H.D. 2, 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

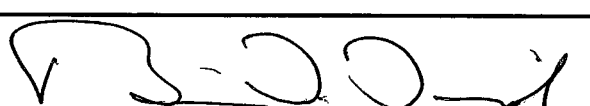


CAROL FUKUNAGA, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2524 HD2	EDT/CPN, WAM	3-19-12		
<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
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh				✓
NISHIHARA, Clarence K.				✓
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	4	0	0	3
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