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COMMITTEE ON FINANCE

HB 2324, RELATING TO BROADBAND

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

February 27, 2012

1 **Office's Position:** OPPOSED

2 **Fiscal Implications:** NONE

3 **Purpose and Justification:** HB2324, HD1, Proposes exempting the reconstruction and new
4 construction of broadband facilities on state property from state and county permitting processes,
5 including from environmental review under Chapter 343, HRS.

6 Note the Bill's description includes "State and County property" but the Bill itself seems
7 to include only State property.

8 The OEQC strongly opposes HB2324HD1 as it circumvents the fundamental principles
9 of Chapter 343 which is to evaluate and disclose environmental and other impacts of a proposed
10 action prior to the implementation of the action. The building of new communication towers,
11 utility poles, cables, and various antenna support structure on State lands – potentially on
12 mountain tops, on conservation lands, across remote valleys, in sensitive watershed areas and
13 possibly even in State parks – should not occur without a serious evaluation of environmental
14 consequences.

1 In addition, existing law under Chapter 343 already allows for the easy exemption for
2 those projects which are minor in nature or for other reasons are expected to have no or
3 negligible impacts on the environment.

4 a) HB2324HD1 Is excessively broad and seems to include “all state and county permits as
5 the proposed language states “any actions relating to the installation, improvement,
6 construction, upgrading, or development...shall be exempt from county permitting
7 requirements and state permitting and approval requirements, including but not limited
8 to...

9 b) HB2324HD1 requires 30 days notice to the director of commerce and consumer affairs
10 but does not directly require public notification. Further, the Environmental Council
11 responsible for many aspects of Chapter 343 and other environmental issues only meets
12 monthly and so would not in all practicality be able to respond or provide any meaningful
13 input on a timely basis in response to notification.

14 c) HB2324HD1 defines “broadband facilities” as any infrastructure “relating to broadband
15 service or broadband technology...” “Relating to”...seems excessively broad and could
16 potentially sweep joint projects between the electrical utility or other services into
17 qualifying for this same exemption.

18 d) HB2324HD1 will increase the profits of private sector developers to the detriment of
19 environmental and public interests with no guarantee of increased or improved broadband
20 service. Allowing private for profit entities to access sensitive public lands and to
21 construct for profit facilities on these public lands without requiring them to obtain any
22 State or County permits, and without any public review of the environmental or cultural
23 impacts could result in irreparable harm to the public interest.

1 e) In situations where the proposed action truly has no or a negligible environmental impact,
2 existing provisions in Chapter 343 allow for an easy and straightforward exemption.

3 For example it may be perfectly logical to exempt from environmental review a
4 broadband facilities project that involves construction in an existing urban area or
5 otherwise obviously would have no significant environmental impacts. However
6 conducting a similar activity in a conservation area or State park in all likelihood should
7 not be exempted.

8 For these reasons, the Office of Environmental Quality Control strongly opposes
9 HB2324, HD1 and urges the committee to not pass this measure forward. Should the committee
10 however choose to support this measure we strongly encourage that conservation lands not be
11 included and/or at the minimum exclude sensitive watersheds, areas with known historical and
12 cultural significance as well as State parks such as Diamond Head, Mauna Kea, Na Pali, Koke'e
13 and many other areas on each island.