

**HB 2324, HD 2**

**EDT-CPN**



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT TOURISM**

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

**MARY ALICE EVANS**  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
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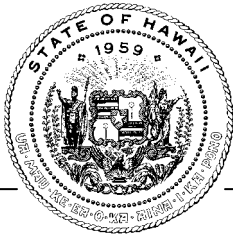
Statement of  
**RICHARD C. LIM**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**  
**AND**  
**SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**  
Friday, March 16, 2012  
1:15 PM  
State Capitol, Conference Room 016  
In consideration of  
**HB 2324 HD2 RELATING TO BROADBAND.**

Chairs Fukunaga and Baker, Vice Chairs Wakai and Taniguchi, and Members of the Committees on Economic Development and Technology and Commerce and Consumer Protection:

The Department of Business, Economic Development and Tourism (DBEDT) **supports the intent of HB 2324 HD2**. In leading the Hawaii Broadband Initiative (HBI), DBEDT recognizes the importance of an efficient and reliable permitting process for the wide area deployment and adoption of broadband networks.

DBEDT offers no comment on the practicability of implementing the exemptions. We will defer comment on this to the responsible regulatory agency.

Thank you for the opportunity to submit testimony on this bill.



# DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE  
GOVERNOR  
RICHARD C. LIM  
DIRECTOR  
MARY ALICE EVANS  
DEPUTY DIRECTOR  
JESSE K. SOUKI  
DIRECTOR  
OFFICE OF PLANNING

## OFFICE OF PLANNING

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Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**  
**AND**  
**SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Friday, March 16, 2012  
1:15 PM  
State Capitol, Conference Room 016

in consideration of  
**HB 2324 HD2**  
**RELATING TO BROADBAND.**

Chairs Fukunaga and Baker, Vice Chairs Wakai and Taniguchi, and Members of the Senate Committees on Economic Development and Technology and Commerce and Consumer Protection.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The SMA, a subset of the larger coastal zone, generally extends inland from the shoreline to the nearest highway. This is the most sensitive area of the coastal zone, within which the legislature determined that special controls on developments were needed to (1) avoid permanent losses of valuable resources and the foreclosure of management options, (2) ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided, and (3) preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. See HRS §205A-21. Within this narrow band around the coast, proposed

"development" is required to obtain an SMA permit from the respective county within which it is located.

HB 2324 HD1 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on state buildings and the property on which the state buildings are located from county permitting requirements, and state permitting and approval requirements, including but not limited to the requirements of HRS chapters 171, 205A, and 343, except to the extent that the permitting or approval is required by federal law or is necessary to protect eligibility for federal funding, services, or other assistance from July 1, 2012 to June 30, 2017.

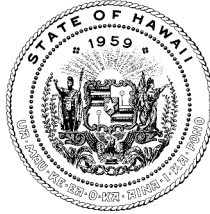
OP supports the intent of this bill to streamline permitting for development of broadband facilities on state buildings and the property upon which the state building is located.

OP is working with state agencies to develop a streamlined process that maintains consistency with the federal and state approved CZM Program. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric Administration (the federal agency which funds the state's CZM Program). The Administration will have a proposed bill to address these issues in the next legislative session.

In the interim, OP supports certain stop-gap bills that exempt certain state projects from SMA permitting, because those bills include a sunset date, do not change HRS Chapter 205A, and provide that the affected agencies will consult with the CZM Program on consistency.

Thank you for the opportunity to provide testimony on this measure.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committee on  
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Friday, March 16, 2012  
1:30 PM  
State Capitol, Conference Room 016**

**In consideration of  
HOUSE BILL 2324, HOUSE DRAFT 2  
RELATING TO BROADBAND**

House Bill 2324, House Draft 2 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of new and existing broadband facilities on state property from county permitting and state approval and permitting requirements, including Chapter 171, Hawaii Revised Statutes (HRS), for five years. The Department of Land and Natural Resources (Department) offers the following concerns:

The Department has concerns with the broad exemption from all the requirements of Chapter 171, HRS. An exemption from Chapter 171, HRS, for the installation, improvement, construction, upgrading or development of new or existing broadband facilities could allow activities that might adversely impact other concurrent uses of the public lands where the existing easements or rights-of-way are situated or those of adjacent lands. More importantly, this broad exemption from Chapter 171, HRS, could be interpreted to allow the use of state lands without the approval or other disposition from the Department or Board of Land and Natural Resources, and allow the use of state lands for free. Since broadband infrastructure improvements would be proposed by for-profit entities, the State should receive its fair share for the use of state lands.<sup>1</sup>

Chapter 171, HRS, is not a permitting statute but a disposition Chapter, that sets forth the processes and procedures for dispositions related to the proposed use of state lands, such as in the form of leases and easements. Compensation for these dispositions is also set forth in Chapter 171, HRS, at the fair market value for the use of state lands. As such, the Department recommends references to Chapter 171, HRS, be deleted from this bill.

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<sup>1</sup> To the extent these lands involve public trust lands, then the Office of Hawaiian Affairs would be entitled to 20% of the proceeds received by the State.

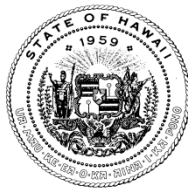
**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

NEIL ABERCROMBIE  
GOVERNOR



GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
JADE BUTAY  
RANDY GRUNE  
JADINE URASAKI

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

March 16, 2012

**H.B. 2324 H.D. 2**  
**RELATING TO BROADBAND**

**SENATE COMMITTEE(S) ON ECONOMIC DEVELOPMENT & TECHNOLOGY**  
**and COMMERCE & CONSUMER PROTECTION**

The Department of Transportation supports this Administration initiative 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.

House Bill 2325 waives the State from liability and we would recommend the same language in this bill.

Thank you for the opportunity to provide testimony.



**STATE OF HAWAII**  
OFFICE OF ENVIRONMENTAL QUALITY  
CONTROL  
235 S BERETANIA ST. SUITE 702  
HONOLULU, HAWAII 96813  
Tel. (808) 586-4185  
Fax. (808) 586-4186  
Email: oeqc@doh.hawaii.gov

**COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

**HB 2324 HD2, RELATING TO BROADBAND**

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

**March 16, 2012**

1 **Office's Position:** OPPOSED

2 **Fiscal Implications:** NONE

3 **Purpose and Justification:** HB2324, HD2, 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 While the OEQC appreciates the prior amendments attempting to narrow the scope and  
7 focus of this measure, the OEQC remains opposed to blanket exemption proposals such as are  
8 contained in HB2324 HD2 as it circumvents the fundamental principles of Chapter 343 which is  
9 to evaluate and disclose environmental and other impacts of a proposed action prior to the  
10 implementation of the action. The building of new communication towers, utility poles, cables,  
11 and various antenna support structure on State lands — should not occur without a proper  
12 evaluation of environmental consequences. The OEQC is no authority on the possible health  
13 ramifications of the transmission of microwave, radio waves or electromagnetic energy in

1 general but assumes that different facilities generate different levels of energy and that some  
2 facilities may not be appropriate to be located near medical facilities such as State Hospitals nor  
3 possibly in residential areas such as in State Public Housing or on the grounds of public schools  
4 – all of which would be possible to do without any oversight, permits or review if this measure  
5 were to pass.

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

9 a) HB2324, HD2 has been somewhat narrowed in scope from its original version to now  
10 impact only facilities constructed “on state buildings, and the property upon which state  
11 buildings are located”. It is important to note that there are State buildings located on  
12 environmentally sensitive lands within State Parks, watersheds and conservation areas.  
13 There are State buildings that are historical in nature. There are State buildings that  
14 house the medically fragile, the homeless, affordable housing, public schools etc.

15 b) HB2324, HD2 remains excessively broad and seems to include all state and county  
16 permits as the proposed language states “any actions relating to the installation,  
17 improvement, construction, upgrading, or development...shall be exempt from county  
18 permitting requirements and state permitting and approval requirements, including but  
19 not limited to...

20 c) HB2324, HD2 requires 30-day notice to the director of commerce and consumer affairs  
21 but does not directly require public notification. Further, the Environmental Council  
22 responsible for many aspects of Chapter 343 and other environmental issues only meets  
23 monthly and so would not in all practicality be able to respond or provide any meaningful  
24 input on a timely basis in response to notification.



1 d) HB2324, HD2 defines “broadband facilities” as any infrastructure “relating to broadband  
2 service or broadband technology...” “Relating to”...seems excessively broad and could  
3 potentially sweep joint projects between the electrical utility or other services into  
4 qualifying for this same exemption.

5 e) HB2324, HD2 will increase the profits of private sector developers to the potential  
6 detriment of environmental and public interests with no guarantee of increased or  
7 improved broadband service. Allowing private for profit entities to access public lands  
8 and to construct for profit facilities on these public lands without requiring them to obtain  
9 any State or County permits, and without any public review of the environmental or  
10 cultural impacts could result in irreparable harm to the public interest.

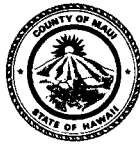
11 f) In situations where the proposed action truly has no or a negligible environmental impact,  
12 existing provisions in Chapter 343 allow for an easy and straightforward exemption.  
13 For example it may be perfectly logical to exempt from environmental review a  
14 broadband facilities project that involves construction in an existing urban area or  
15 otherwise obviously would have no significant environmental impacts. However  
16 conducting a similar activity in a conservation area or State park in all likelihood should  
17 not be exempted.

18 For these reasons, the Office of Environmental Quality Control opposes HB2324, HD2.  
19 Should the committees however choose to support this measure we strongly encourage that  
20 conservation lands not be included and/or at the minimum exclude hospitals, schools, public  
21 housing, sensitive watersheds, areas with known historical and cultural significance as well as  
22 State parks such as Diamond Head, Mauna Kea, Na Pali, Koke’e and similar areas on each  
23 island.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

March 15, 2012

TO: The Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development and Technology  
The Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Protection

FROM: Danny A. Mateo  
Council Chair

SUBJECT: **HEARING OF MARCH 16, 2012; TESTIMONY IN OPPOSITION TO HB 2324, HD2, RELATING TO BROADBAND**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to exempt upgrades and new construction of broadband facilities on State property from State and county permitting processes. The exemption would be effective for five years, from July 1, 2012, to June 30, 2017.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

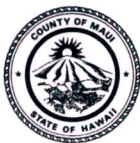
1. While the intent of this bill is to expedite the development of broadband facilities on State property by streamlining the permitting process, I am concerned that this measure goes too far. Exempting any actions relating to the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on State property from county permitting requirements removes the county from a process meant to ensure compliance with county codes, thereby violating an important home-rule component.
2. I am further troubled that notice of such projects will be limited to the Director of Commerce and Consumer Affairs. I am concerned that this limited notice may not provide the type of notice normally offered to the citizens of the county most impacted by such projects through the county permitting processes.

For the foregoing reasons, I oppose this measure.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

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[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

March 15, 2012

TO: Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development And Technology

Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce And Consumer Protection

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in black ink, appearing to read "Joseph Pontanilla".

DATE: Friday March 16, 2012

SUBJECT: **OPPOSITION TO HB 2324, HD 2, RELATING TO BROADBAND**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 2324, HD 2** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to oppose this measure.

12:03:15:kbn/JP: HB 2324 HD2

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

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[www.maui-county.gov/council](http://www.maui-county.gov/council)

March 15, 2012

The Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development and Technology  
Hawaii State Capitol, Conference Room 016  
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol, Conference Room 016  
Honolulu, Hawaii 96813

Dear Chair Fukunaga and Chair Baker:

**Re: Testimony in Opposition to HB 2324, HD2 relating to Broadband  
(Public Hearing: March 16, 2012 at 1:15 pm in Conference Room 016)**

As the Lana'i member on the Maui County Council, I would like to offer testimony in opposition to HB 2324, HD2. This measure exempts the upgrading and new construction of broadband facilities on state property from state and county permitting processes; requires reports to the legislature; sunsets on June 30, 2017

I oppose this measure, because it would eliminate review by County agencies to insure that the upgrading and construction of new broadband facilities on State property would not adversely impact County police, fire and other emergency broadband facilities. I also concur with testimony in opposition submitted by Maui County Council Chair Danny A. Mateo.

Thank you for the opportunity to offer this testimony in opposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Riki Hokama".

Riki Hokama, Councilmember- Lana'i

cc: Council Chair Danny Mateo

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 5:29 AM  
**To:** EDTTestimony  
**Cc:** friendsoflanai@gmail.com  
**Subject:** Testimony for HB2324 on 3/16/2012 1:15:00 PM

Testimony for EDT/CPN 3/16/2012 1:15:00 PM HB2324

Conference room: 016  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Friends of Lana'i  
Organization: Friends of Lana'i  
E-mail: [friendsoflanai@gmail.com](mailto:friendsoflanai@gmail.com)  
Submitted on: 3/15/2012

**Comments:**

Environmental regulations were created by the legislature to protect the land and its people. There is NO need to exempt or disembowel those regulations for broadband. Vote no on HB2324!

# Testimony before the Senate Committees on Economic Development & Technology and Commerce & Consumer Protection

By Tracy Nishibun  
Facilities Attachment Program Manager  
Hawaiian Electric Company, Inc.

Friday, March 16, 2012  
1:15 pm, Conference Room 016

House Bill 2324 HD2  
Relating to Broadband

Chairs Fukunaga & Baker, Vice Chairs Wakai & Taniguchi, and Members of the Committees:

My name is Tracy Nishibun and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We support the deployment of high-speed broadband infrastructure in Hawaii, and the efforts of the Legislature and the Broadband Assistance Advisory Council (BAAC) to streamline the permitting process applicable to the State's broadband initiative. However we have strong concerns with this bill as written because this bill would exempt an entity taking action under this bill from complying with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of broadband infrastructure on state property. By no means is our intent to impede the process. Our intent is to ensure any entity complies with applicable engineering and safety standards when installing broadband infrastructure onto any new or existing facilities owned by Hawaiian Electric Company.

We therefore suggest the following amendment for your consideration:

1. In reference to pg. 1, line 10, Section 1(a), should be revised to include and read "*...the extent that the permitting or approval is required **or subject to applicable public utilities commission, state, county, and federal laws, rules, regulations, policies, orders, procedures, and guidelines, and joint pole and facility attachment agreements pertaining, but not limited, to safety, engineering, and reliability** or is necessary to protect eligibility for federal funding, services, or other assistance."*

We appreciate the support of the Legislature and BAAC in hearing and understanding our concerns as we work together to address these issues.

Thank you for the opportunity to testify on this matter.

**HB 2324 HD2**

**RELATING TO BROADBAND**

**KEN HIRAKI  
VICE PRESIDENT-GOVERNMENT AND COMMUNITY AFFAIRS**

**HAWAIIAN TELCOM**

**March 16, 2012**

Chairs Fukunaga and Baker and members of the Committees:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom (HT) on HB 2324 HD2, Relating to Broadband. HT supports the measure with amendments.

While we support the intent of exempting upgrades and new construction of broadband facilities on state and county property from governmental permit requirements, HT believes that the bill should be amended to also include upgrades and new construction on private property as well.

If the goal of this measure to aggressively advance the deployment of broadband services statewide, HB 2324 HD2 must be amended to align Hawaii's policy objectives with governmental regulations that encourage greater private funded investment in broadband infrastructure by eliminating the dual standard favoring upgrades and construction on state and county property while excluding private property. HT wants to be a strong partner with the State of Hawaii with regard to broadband deployment on both public and private property. Removing regulatory barriers for broadband deployment will help Hawaii in the construction of a world-class communications infrastructure second to none.

If it is the intent of this committee to move this measure forward, we also respectfully request that the following language be included to ensure applicable public safety concerns are addressed:

**“Nothing in this section shall affect the provisions of section 3 of Act 151, Session Laws of Hawaii 2011 .”**

This reference to language from Act 151 last session (2011) was included to protect the public from compromising the integrity of utility lines and poles.

Based on the aforementioned, Hawaiian Telcom respectfully requests that this committee consider our suggested amendments to HB 2324 HD2. Thank you for the opportunity to testify.







**To:** Sen. Carol Fukunaga, Chair  
Sen. Glenn Wakai, Vice Chair  
Committee on Economic Development and Technology

**From:** Kiersten Faulkner  
Executive Director, Historic Hawai'i Foundation

**Committee Date:** Friday, March 16, 2012  
1:30 p.m.  
Conference Room 016

**Subject:** **HB2324 HD2, Relating to Broadband**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition to HB2324 HD2**, Relating to Broadband. The bill would exempt the upgrading and new construction of broadband facilities on state property from state and county permitting processes.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

HHF believes that the exemptions proposed in HB2324 HD2 are unnecessary and could put significant historic properties at risk. The State's historic preservation law, HRS 6E, requires that State departments consult with the historic preservation division to review proposals and determine whether they could cause an adverse effect to historic property. The project may proceed with the written concurrence of the historic preservation division after measures are taken to avoid, minimize or mitigate any harm to the historic or cultural resource. This process provides a safeguard to protect the State's historic and cultural properties. Exemption from this process would mean that the historic and cultural significance public property proposed for use for broadband facilities may not be fully considered during planning, design or construction. HHF also believes that exemption from environmental and cultural regulations sets a bad precedent. Such exemptions are contrary to the basic principle that the "quality of the environment is as important to the welfare of the people of Hawai'i as is the economy of the State" (HRS Chapter 341).

The State of Hawai'i, through its administrative departments, is the steward and caretaker for many historic and cultural properties. These include schools, office buildings, museums, bridges, state parks, engineering works, and other structures that are significant for association with historic events or persons, or that embody distinctive characteristics of a type, period, method of construction, represent the work of a master, or possess high artistic value. Review and approval processes are critically important to avoid irreversible and permanent impairment to the historic and cultural properties that are entrusted to the State to ensure their preservation, interpretation and appropriate treatment for the enjoyment of present and future generations. Eliminating the

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**Historic Hawai'i Foundation**

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

requirement for review and concurrence on impacts to historic resources would expose Hawaii's heritage to irreversible harm and destruction of irreplaceable historic and cultural properties.

Furthermore, the State's historic preservation review process works in conjunction with similar requirements under the National Historic Preservation Act, which require that undertakings involving federal funding, permitting or approvals also comply with review and consultation procedures that result in obtaining SHPD concurrence prior to proceeding. Because Broadband projects in the state frequently have a nexus to federal actions, federal compliance would continue to be required. In past broadband projects in which federal action was involved, SHPD and its preservation partners—including Historic Hawai'i Foundation—were able to work with the federal agency to develop a standardized approach that ensured that historic properties would not be adversely effected during the design and installation of broadband facilities. HHF supports this effort and feels that it is a more appropriate way to address the concern to ensure public safety, expedite processes, and protect Hawaii's heritage.

**Therefore, Historic Hawai'i Foundation opposes HB2324 HD2.**

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**Historic Hawai'i Foundation**

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.



**HB 2324 HD2  
RELATING TO BROADBAND**

Senate Committee on Economic Development and Technology

March 16, 2012

1:30 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 2324 HD2, which would exempt **any actions** relating to the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on state buildings and the property which the state buildings are located, from county and state permitting requirements, including Hawai'i Revised Statutes (HRS) §§ 171, 205A, and 343, from July 1, 2012 to June 30, 2017. The exemptions provided for in HB 2324 HD2 are broader than necessary to facilitate the deployment of broadband infrastructure in Hawai'i, and their application to any actions relating to the development of new or existing broadband facilities may lead to irreversible consequences.

Exempting actions that may involve ground disturbances from HRS § 343 is particularly concerning. There is a simple and clear process in place to have projects exempted from HRS § 343 if they are expected to have negligible impacts. On the other hand, for those broadband actions that may have a significant impact on Native Hawaiian traditional and customary practices, including the practice of caring for burials and iwi, a review is necessary to determine appropriate mitigation. The environmental review process required under HRS § 343 ensures that projects that may have a significant impact include proposals to minimize adverse effects and identify alternative actions. It also assists the State in fulfilling its affirmative obligations to protect Native Hawaiian traditional and customary practices.

Additionally, HB 2324 HD2 could be interpreted as allowing for the sale or exchange of public lands notwithstanding HRS §§ 171-64.7 and 171-50, which require legislative approval before state agencies alienate public lands. These laws are a critical part of the agreement that settled OHA's 15-year lawsuit in which OHA took the position that the state cannot sell the crown and government lands of the Kingdom of Hawai'i, which were "ceded" to the United States and later transferred to the state at statehood, until the Native Hawaiian people's unrelinquished claims to those "ceded" lands are resolved.

Finally, this legislature has already provided relief for broadband initiatives through the enactment of Act 151, Session Laws of Hawai'i 2011. Act 151 provides exemptions from county and state permitting for installation, improvement,

construction, or development of broadband infrastructure along existing poles and conduits for five years, starting on January 1, 2012.

The exemptions considered in HB 2324 HD2 threaten to undermine the purposes of county and state permitting and approvals, including consideration for public safety, appropriate planning, protection of constitutionally recognized Native Hawaiian traditional and customary rights, protection of Hawai'i's natural and cultural resources, controls on development within particularly fragile areas, and public participation in Hawai'i's future. We ask that this committee **HOLD** HB 2324 HD2.

Mahalo for the opportunity to testify on this important measure.



*Sandwich Isles  
Communications, Inc.*

*A Waimana Company*

**ROBERT KIHUNE  
CHIEF EXECUTIVE OFFICER  
SANDWICH ISLES COMMUNICATIONS, INC.  
TO  
THE SENATE  
COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY ON  
MARCH 16, 2012 - 1:30 P.M.**

**HB2324, HD2 RELATING TO BROADBAND**

Chair Fukunaga and members of the Senate Economic Development and Technology Committee:

I am Robert Kihune, Chief Executive Officer of Sandwich Isles Communications (SIC), providing testimony in support of HB2324, HD2 Relating to Broadband.

SIC has spent nearly two decades building out broadband telecommunications infrastructure across the state to ensure native Hawaiians in remote and rural areas of our state have access to broadband telecommunications services. In order to provide service on Hawaiian Home Lands (HHL), SIC has and will continue to install broadband infrastructure outside of HHL areas. As a result of these critical broadband infrastructure investments, the Hawaiian community today is able to preserve its cultural heritage while capitalizing on opportunities in the global market, through the advanced technology provided by SIC. We believe that broadband technology is an essential element of the State's

economy and vital to the health and welfare of all in the State. From our experience, onerous county and state permitting and approval requirements often cause significant and costly delays to broadband infrastructure deployment. We believe creating permitting exemptions for the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on state property will help to eliminate these delays thereby attracting much-needed broadband investment in Hawaii.

For these reasons we urge passage of this bill. Thank you for the opportunity to provide testimony.



# Sierra Club Hawai'i Chapter

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## SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

March 16, 2012, 1:15 P.M.  
(*Testimony is 1 page long*)

### TESTIMONY IN STRONG OPPOSITION TO HB 2324 (HD2)

Aloha Chairs Fukunaga and Baker, and Members of the Committees:

The Sierra Club of Hawai'i strongly *opposes* HB 2324 (HD2). This bill misguidedly exempts all "broadband" projects from all permitting, licensing, and certification requirements on state property.

Eliminating "all" permitting, licensing, and certification requirements for certain projects is simply bad policy. Recall that permitting can sometimes include the only opportunity for agency and public involvement. It ensures towers and antennas are not built in bad locations, where *your* constituents will complain about the eyesore. It ensures undersea cables do not run through and destroy fragile marine environments.

Public oversight of our public natural resources is essential and required under our Constitution.

Our regulatory system provides for checks and balances and ensures protection of the public at large. It ensures some form of accountability—if the State plans to take action that may diminish the quality of life or adversely impact the environment that everyone shares, those impacts are acknowledged and mitigated before they occur. Without such a disclosure, we would blindly take actions without knowing what the future costs or benefits would be. The essence of our environmental review process is used to understand and fix problems *before they occur*.

We ask the Committees to hold this bill. Mahalo for the opportunity to testify.

## fukunaga2 - Ashley-Jane

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 09, 2012 5:19 PM  
**To:** EDTTestimony  
**Cc:** inunyabus@gmail.com  
**Subject:** Testimony for HB2324 on 3/16/2012 1:30:00 PM

Testimony for EDT 3/16/2012 1:30:00 PM HB2324

Conference room: 016  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: E. Dunbar  
Organization: Individual  
E-mail: [inunyabus@gmail.com](mailto:inunyabus@gmail.com)  
Submitted on: 3/9/2012

**Comments:**

Aloha Chair and Committee Members,

Absolutely no to exemptions to private industry using public lands.

It appears that this administration and legislative session is entertaining more and more proposals to slide around permitting processes for a multitude of various projects.

This bill is wrongheaded.

Please say no to anything that dismantles protections through permitting processes being exempted.

HB2324 is another example of projects wanting to use Hawaii's public lands but not wanting to go through the same processes as everyone else. It is preferential treatment and discriminatory; the kind of action that sets precedents via lawsuits, not to mention the falsehoods that these companies bring to the table to get their projects accepted, for instance the fiber-optic cables that were supposedly installed in Anahola to "allow Hawaiians to have faster internet connections" was a complete ruse...the real intent being to use Hawaiian homelands for free.

All these corporations coming from the states with their demands to speed things up is not in Hawaii's best interest for protection of lands and resources and subsequently the general public's protections for sustainability.

Enough already. Please do not allow this bill to proceed. It is irresponsible and dangerous.