

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

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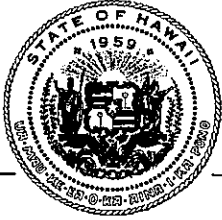
Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Tuesday, February 07, 2012
8:30 AM
State Capitol, Conference Room 312
In consideration of
HB 2324 RELATING TO BROADBAND

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization and Business: Thank you for this opportunity to submit testimony.

My name is Richard Lim, Director of the Department of Business, Economic Development and Tourism ("DBEDT"). DBEDT supports the intent of HB 2324. 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
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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Tuesday, February 7, 2012
8:30 AM
State Capitol, Conference Room 312

in consideration of

**HB 2324
RELATING TO BROADBAND**

Chair McKelvey, Vice Chair Choy, and Members of the House Committee on
Economic Revitalization and Business.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, the Coastal Zone Management (CZM) law. Special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. HB 2324 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on county or state property 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 development of broadband facilities on state and county property. However, we recommend that the language in Section 1 (a) of this bill be in parity with the language from Act 151, Session Laws of Hawaii 2011, Section 2, by adding the following:

"...provided that the installation, improvement, construction, or development of infrastructure shall:

- (1) Be directly related to the improvement of existing telecommunication cables or the installation of new telecommunications cables:
 - (A) On existing or replacement utility poles and conduits; and
 - (B) Using existing infrastructure and facilities;
- (2) Take place within existing rights-of-way or public utility easements or use existing telecommunications infrastructure; and
- (3) Make no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure.

A person or entity shall use reasonable best efforts to comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to wireless broadband service."

Further, at the administration's direction, the OP is working on alternative processes for state projects that are consistent with the CZM Program. Recommendations for alternative processes, in consultation with state agencies, will be completed before the next legislative session.

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



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Date: Tuesday, February 7, 2012
Time: 8:30 a.m.

TESTIMONY ON HB 2324 - RELATING TO BROADBAND

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Donn Yabusaki. I am the Administrator of the Cable Television
Division of the Department of Commerce and Consumer Affairs (DCCA). The
Department appreciates the opportunity to provide testimony on H.B. No. 2324.

The Department supports the general intent of this bill, which is to accelerate the
deployment of broadband infrastructure throughout the State. However, because of the
extent to which the bill exempts construction and development on county and state
property from county permitting and state permitting and approval requirements, the
Department defers to the appropriate departments and agencies on the significant
impacts of the proposed exemption on government lands and revenues.

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 House Committee on
ECONOMIC REVITALIZATION AND BUSINESS**

**Tuesday, February 7, 2012
8:30 AM
State Capitol, Conference Room**

**In consideration of
HOUSE BILL 2324
RELATING TO BROADBAND**

House Bill 2324 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of new and existing broadband facilities on county or 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.¹

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.

¹ 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

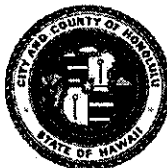
WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

DEPARTMENT OF INFORMATION TECHNOLOGY
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PETER B. CARLISLE
MAYOR



GORDON J. BRUCE
DIRECTOR & CIO

TESTIMONY
of
GORDON J. BRUCE, DIRECTOR AND CHIEF INFORMATION OFFICER
Department of Information Technology
City and County of Honolulu
before the
COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
on
Tuesday, February 7, 2012
8:30 a.m.
State Capitol, Conference Room 312

In consideration of
HOUSE BILL 2324 – RELATING TO BROADBAND

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization & Business:

My name is Gordon J. Bruce, and as the Director of the Department of Information Technology and the Chief Information Officer for the City and County of Honolulu, I submit testimony in opposition of HB 2324.

I appreciate the intent of HB2324, but there are numerous issues that can arise from exempting companies and organizations from obtaining permits.

When it comes to County property, there is a fiduciary responsibility to the constituent, and as such, county officials must comply with the various county laws related to encumbering County lands. As it relates to private property, county officials have a fiduciary responsibility to protect those who live in and around private property.

Another approach may be to look at a means to open up common rights-of-way, government and non-government facilities such a buildings, light poles, and in ground conduit systems to competitive use.

Thank you for this opportunity to provide testimony.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gordon J. Bruce", is written over a circular stamp or seal.

Gordon J. Bruce
Director and Chief Information Officer

HB 2324

RELATING TO BROADBAND

KEN HIRAKI

VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS

HAWAIIAN TELCOM

February 7, 2012

Chair McKelvey and members of the Committee:

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

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 is to aggressively advance the deployment of broadband services statewide, HB 2324 must be amended to align Hawaii's policy objectives with governmental regulations that encourage greater private funded investment in broadband infrastructure. The bill as written, creates a dual standard that favors upgrades and construction on state and county property while excluding upgrades and construction on 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, and requests that the bill be amended to include private property.

Based on the aforementioned, Hawaiian Telcom respectfully requests that this committee carefully consider our amendment regarding HB 2324. Thank you for the opportunity to testify.

Testimony before the House Committee On Economic Revitalization & Business

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

**Tuesday, February 7, 2012
8: 30 am, Conference Room 312**

House Bill 2324 - Relating to Broadband

Chair McKelvey, Vice Chair Choy, 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 opposition of HB 2324.

While we support the deployment of high-speed broadband infrastructure in Hawaii, and the efforts of the Legislature and the Broadband Assistance Advisory Council (BACC) to streamline the permitting process applicable to the development and implementation of broadband services and broadband technology, 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 infrastructure relating to broadband services. By not addressing the issue of compliance to engineering and safety standards, public safety would be at risk when installing new or modifying existing broadband facilities.

We ask that the Legislature consider language written in Act 151, Session Laws of Hawaii 2011, specifically Section 3 as it relates to when an entity will be required to upgrade or replace an existing utility pole when using that utility pole to install new telecommunications cables or to improve existing telecommunications cables (i.e. broadband facilities).

We appreciate the support of the Legislature and BACC in hearing and understanding our concerns as we continue to work to resolve these issues.

Thank you for the opportunity to testify on this matter.