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Committee on Economic Revitalization & Business

HB 2324, RELATING TO BROADBAND

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

February 7, 2012

1 **Office's Position:** OPPOSED

2 **Fiscal Implications:** NONE

3 **Purpose and Justification:** HB 2324 proposes exempting the upgrading and new construction
4 of broadband facilities on state and county property from state and county permitting processes
5 including from environmental review under Chapter 343, HRS.

6 The OEQC opposes HB2324 as it circumvents the fundamental intent of Chapter 343
7 which is to base decisions on probable or expected impacts of specific actions in specific set of
8 circumstances rather than broad classes of "one size fits all" actions that govern all situations
9 regardless of circumstances.

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

13 Plus, there exists a process under existing law via the Environmental Council that
14 evaluate exemption requests, and the OEQC strongly encourages the appropriate agency to

1 submit to the Council a request for consideration and this process should be allowed to proceed.

2 Chapter 343 in essence merely requires someone, a physical person in some position of
3 authority, to look at the project and determine if there are in fact significant impacts and if not it
4 can be exempted, but if there are impacts then to disclose those impacts and suggest mitigation.
5 It forces an agency to be accountable and to look closely at decisions effecting sensitive areas
6 and sometimes irreplaceable natural resources. Exemptions put into place by statute eliminate
7 the requirement for accountability and allow important decisions impacting the environment and
8 other important public interests to be made behind the shield and shadow of a statutory
9 requirement.

10 For example it may be perfectly logical to exempt from environmental review a
11 broadband facilities project that involves construction in an existing urban area or otherwise
12 obviously would have no significant environmental impacts. However conducting a similar
13 activity in an area where endangered species, burials or perhaps other factors present – might
14 warrant a closer look and an environmental assessment to determine impacts.

15 The installation or upgrading of towers and other broadband infrastructure as described
16 seems relatively unobtrusive however the actual location of the activity/action/development is
17 conducted is an important factor, ingress and egress to the location may be a consideration, and
18 the total scale of the improvements are other critical factors, just to name a few. Are these
19 projects located in a conservation zone or perhaps in areas considered sacred to the host culture?

20 The plethora of other possible factors is such an important consideration that all
21 exemptions and the current approved exemption process under Chapter 343 and Section 11-200-
22 8, Hawaii Administrative Rules, include a caveat that states, “All exemptions under the classes in
23 this section are inapplicable when the cumulative impact of planned successive actions in the

1 same place, over time, is significant, or when an action that is normally insignificant in its impact
2 on the environment may be significant in a particularly sensitive environment.”

3 Finally, the OEQC is concerned that this measure requesting a statutory exemption
4 circumvents the established process that requires by law the Environmental Council to review
5 and approve exemption requests such as this. The Environmental Council is fully engaged in
6 fulfilling its duties, there is no back-log on exemption requests at the present time, this is a public
7 and fully sun-shined process, and we ask that this process be honored and allowed to run its
8 course.

9 Thank you.

LATE TESTIMONY



**ROBERT KIHUNE
CHIEF EXECUTIVE OFFICER
SANDWICH ISLES COMMUNICATIONS, INC.
TO
THE HOUSE OF REPRESENTATIVES
COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS ON
FEBRUARY 7, 2012 - 8:30 A.M.**

HB2324 RELATING TO BROADBAND

Chair McKelvey and members of the House Economic Revitalization and Business Committee:

I am Robert Kihune, Chief Executive Officer of Sandwich Isles Communications (SIC), providing testimony in support of HB2324, 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 county or 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.