



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
COMMITTEE ON FINANCE
Tuesday, February 27, 2012
1:00 PM
State Capitol, Conference Room 308
In consideration of
HB 2325 HD1 RELATING TO BROADBAND

Chair Oshiro, Vice Chair Lee, and Members of the Committee on Finance: Thank you for this opportunity to submit testimony on HB 2325 HD1 relating to broadband permits.

The Department of Business, Economic Development and Tourism (DBEDT) supports the intent and offers comments on HB 2325 HD1. 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 respectfully offers comment **that if the specific 45 day limit is deemed to be too short, it may be more practicable to allow agencies 60 days to properly review and act upon broadband permit applications.** DBEDT finds that 120 days does not reflect the streamlining intent of this bill for economic development purposes. We will defer further comment on this to the responsible regulatory agency.

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

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
FINANCE

Monday February 27, 2012
1:00pm
State Capitol, Conference Room 308

In consideration of
HOUSE BILL 2325, HOUSE DRAFT 1
RELATING TO BROADBAND

House Bill 2325, House Draft 1 proposes to require the approval of state and county permits for broadband related permits within forty-five days of submission of a complete permit application. If on the forty-sixth day an application is not approved, approved with modifications, or disapproved, it shall be deemed approved by the State. The Department of Land and Natural Resources (Department) offers the following concern as it relates to the issuance of a Conservation District Use Permit.

A Conservation District Use Application (CDUA) for commercial broadband facility (e.g., telecommunications tower), within the State Land Use Conservation District requires a public hearing. The hearing is held by the Department after the application is accepted for processing. It would not be possible to complete the processing of a CDUA for a commercial broadband facility within forty-five days in the Conservation District due to the need for a public hearing prior to decision making. Furthermore, the Department is concerned that it will not be able to conduct adequate review of the potential environmental/cultural impacts resulting from telecommunication facilities being proposed on our scenic and fragile ridges and hilltops under the stringent processing requirements proposed by this measure.

A more reasonable timeframe than forty-five days is required to complete an adequate review of major projects that are proposed in environmentally and culturally sensitive areas of the Conservation District.

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

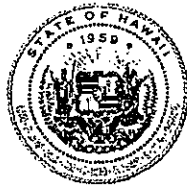
GUY H. KAULUKUKUI
FIRST DEPUTY

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:

February 27, 2012

**H.B. 2325 H.D. 1
RELATING TO BROADBAND**

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

The Department of Transportation supports House Bill 2325, House Draft 1.

This bill proposes to exempt the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology if an application is not approved within forty-five days. The Department will have an opportunity to review planned work and will not be held liable for any non-approval.

Thank you for the opportunity to provide testimony.



Testimony before the House Committee On Finance

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

Monday, February 27, 2012
1:00 pm, Conference Room 308

House Bill 2325 HD1
Relating to Broadband

Chair Oshiro, Vice Chair Lee, 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.

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 the following strong concerns with this bill as written:

1. 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. 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 HECO.
2. This bill would exempt the State and the County from any liability against them on account of actions taken by them in reviewing, approving, modifying, or disapproving the permit application. Such actions may be in direct conflict with the review/approval process in place between HECO and current telecommunication entities.

We therefore suggest the following amendments for your consideration:

1. In reference to pg. 1 of HB2325 HD1, SECTION 1, §27 - Broadband related permits; automatic approval (a), starting from line 8, be revised to include and read "...and full

*payment of any applicable fee. **Such approval, approval with modification, or disapproval shall be made 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.***

2. Similarly, in reference to pg. 3 of HB2325 HD1, SECTION 2, §46 - Broadband related permits; automatic approval (a), starting from line 11, be revised to include and read *"...and full payment of any applicable fee. **Such approval, approval with modification, or disapproval shall be made 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.**"*
3. In reference to pg. 1 of HB2325 HD1, SECTION 1, §27 - Broadband related permits; automatic approval (c), starting from line 15, be revised to include and read *"No action shall be prosecuted or maintained against the State, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving a permit application, **or against public utilities resulting from such actions.**"*
4. Similarly, in reference to pg. 4 of HB2325 HD1, SECTION 2, §46 - Broadband related permits; automatic approval (c), starting from line 18, be revised to include and read *"No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving a permit application, **or against public utilities resulting from such actions.**"*

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 2325 HD1

RELATING TO BROADBAND
Agenda 3

KEN HIRAKI
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS

HAWAIIAN TELCOM

February 27, 2012

Chair Oshiro and members of the Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom (HT) on HB 2325 HD1, Relating to Broadband.

While we support the intent to accelerate broadband infrastructure deployment in the state, we do have concerns with the current language in the bill that would exempt the State and County from any liability that may incur as a result of actions taken by either entity in reviewing, approving, modifying, or disapproving a permit application.

HT supports the following amendment to address the concern regarding liability:

Same amendment language for two places in the HD1: 1) Page 1, lines 15-18; and 2) Page 3, lines 18-21:

“(c) No action shall be prosecuted or maintained against the State, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving a permit application, or against public utilities resulting from such actions.”

Based on the aforementioned, Hawaiian Telcom respectfully requests the proposed amendment be considered. Thank you for the opportunity to testify.



LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

DATE: Monday, February 27, 2012

TIME: 1:00 P.M.

PLACE: Conference Room 308

BILL: HB **2325 Broadband**

OPPOSE

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee
My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2325 proposes to ram through broadband permitting. It would require action within 45 days, including complex underwater projects, construction of towers.

The bill proposes to prevent any lawsuits or challenges by citizens, and adds the statement that:

"No action shall be prosecuted or maintained against the State, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving a permit application."

Broadband is great. Increasing it is great. Automatic approval is dangerous. Considering public actions to be above review and beyond anyone's reach is insane.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 4:39 PM
To: FINTestimony
Cc: carl.imparato@juno.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carl Imparato
Organization: Individual
E-mail: carl.imparato@juno.com
Submitted on: 2/26/2012

Comments:

Aloha Committee Chair and Members,

I strongly oppose HB 2325 and urge you to reject this bill.

Hawaii's resources and the public interest can only be protected by allowing sufficient time for complete evaluation of all of the potential consequences associated with permit applications and by allowing sufficient time for public input and for full consideration of such input.

Automatic approval requirements only serve to limit full consideration of the impacts, pros and cons of permit applications, leading to inferior, less-informed decision-making.

And in cases in which administrative errors or inefficiencies may cause automatic approval deadlines to be missed, automatic approval requirements can seriously harm the public interest.

For these reasons, please vote to REJECT HB 2325.

Sincerely,

Carl Imparato
PO Box 1102
Hanalei HI 96714

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 9:44 AM
To: FINTestimony
Cc: tsuhyin@yahoo.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tsuh-Yin Chen
Organization: Individual
E-mail: tsuhyin@yahoo.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 10:28 AM
To: FINTestimony
Cc: evernw@aol.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Evern Williams
Organization: Individual
E-mail: evernw@aol.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 10:30 AM
To: FINTestimony
Cc: clk5356@gmail.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carolyn L Knoll
Organization: Individual
E-mail: clk5356@gmail.com
Submitted on: 2/26/2012

Comments:

This measure requires the state and county to approve or deny all permits related to broadband projects, including undersea boring, grading of land, and construction of towers, within 45 days or the project is automatically approved. Automatic approval should be removed; nothing should be automatic when it relates to granting or denying permits. This bill also prevents any lawsuits or challenges by citizens. Where is the democracy in this bill?

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 10:36 AM
To: FINTestimony
Cc: fleetwoodcad@gmail.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: dakota s wolfchild
Organization: Individual
E-mail: fleetwoodcad@gmail.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 10:42 AM
To: FINTestimony
Cc: radbalance@hawaiiantel.net
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Teri Holter
Organization: Individual
E-mail: radbalance@hawaiiantel.net
Submitted on: 2/26/2012

Comments:

Adequate time for reviews is essential. It is disgraceful that lawmakers would even consider further eroding due process in a time when corporations are flagrantly buying elections. We are watching to see who is in office to serve the people and who is just a willing and corrupt lackey of special interests. Do what you know is right!

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 11:36 AM
To: FINTestimony
Cc: karen@redwoodgames.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Karen Chun
Organization: Individual
E-mail: karen@redwoodgames.com
Submitted on: 2/26/2012

Comments:

This law reminds me of the one which forced hasty decisions on so-called "affordable housing" developments. Boy, THAT has been a disaster on Maui!

I make my living on the Internet and support improving our Broadband infrastructure - but that does NOT mean I support eliminating the planning steps that will insure we build the infrastructure in a smart way,

These laws that force the government into making decisions without all the facts are bad
aws.

Please oppose HB2325.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 11:47 AM
To: FINTestimony
Cc: dannygr@hawaiiantel.net
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Daniel Grantham
Organization: Waipio Bay Benevolent Assoc., Llc
E-mail: dannygr@hawaiiantel.net
Submitted on: 2/26/2012

Comments:

This measure requires the state and county to approve or deny all permits related to broadband projects, including undersea boring, grading of land, and construction of towers, within 45 days or the project is automatically approved. Prevents any lawsuits or challenges by citizens

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 11:55 AM
To: FINTestimony
Cc: patbak1@hawaiiantel.net
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Byron W. Baker
Organization: Individual
E-mail: patbak1@hawaiiantel.net
Submitted on: 2/26/2012

Comments:

I do not like mandatory approve/disapprove deadlines; they beg the question of whether the statutory review requirement was a good idea in the first place.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 12:34 PM
To: FINTestimony
Cc: anmevans@gmail.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Martha Evans
Organization: Individual
E-mail: anmevans@gmail.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 12:41 PM
To: FINTestimony
Cc: bernene@hotmail.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Berrie Straatman
Organization: Individual
E-mail: bernene@hotmail.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 12:50 PM
To: FINTestimony
Cc: digrazia001@gmail.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas DiGrazia
Organization: Individual
E-mail: digrasiat001@gmail.com
Submitted on: 2/26/2012

Comments:

45 days is too short for a state review process. We need to have opportunity for citizen lawsuit review. Curtailing citizen lawsuit review may also be unlawful and unconstitutional under Hawai'i law.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 1:44 PM
To: FINTestimony
Cc: skoanui@yahoo.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Stacie
Organization: Individual
E-mail: skoanui@yahoo.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 6:52 PM
To: FINTestimony
Cc: jimiberlin@aol.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: James Berlin
Organization: Individual
E-mail: jimiberlin@aol.com
Submitted on: 2/26/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 10:35 PM
To: FINTestimony
Cc: ndavlantes@aol.com
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

LATE TESTIMONY

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
E-mail: ndavlantes@aol.com
Submitted on: 2/26/2012

Comments:

This measure requires the state and county to approve or deny all permits related to broadband projects, including undersea boring, grading of land, and construction of towers, within 45 days or the project is automatically approved. Prevents any lawsuits or challenges by citizens.

Why? What's the rush? And why deny citizens the right to have a say? Seems pretty shady to me.

Nancy Davlantes
Kaneohe

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2012 7:21 AM
To: FINTestimony
Cc: shawdm@alum.urmc.rochester.edu
Subject: Testimony for HB2325 on 2/27/2012 1:00:00 PM

LATE TESTIMONY

Testimony for FIN 2/27/2012 1:00:00 PM HB2325

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael Shaw
Organization: Individual
E-mail: shawdm@alum.urmc.rochester.edu
Submitted on: 2/27/2012

Comments: