



NEIL ABERCROMBIE
GOVERNOR

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LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Date: Monday, January 30, 2012

Time: 2:00 p.m.

TESTIMONY ON HB 2526 - RELATING TO REPORTING REQUIREMENTS FOR
TELECOMMUNICATIONS AND CABLE TELEVISION PROVIDERS

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Keali'i Lopez. I am the Director of the Department of Commerce and Consumer Affairs (DCCA). The Department appreciates the opportunity to express its strong support for H.B. No. 2526.

Development of world-class communications infrastructure is vital to the future of our State's economy and to the health, welfare and quality of life of all our residents. A number of bills have been introduced this session that recognize that government must understand and adapt its policies and laws to a swiftly changing communications industry. These efforts are critical to the development of 21st century communications infrastructure, and the ability to access information services throughout the State.

In order to provide the information and understanding that government needs to create effective policies and programs, this bill requires reporting by telecommunications and cable television providers of information that will allow the State to have a full comprehension of the industry as technology evolves. The information will also assist the Department in seeking funding for the development of broadband infrastructure and services, and to enhance efforts to advance access to broadband services throughout the State by helping the department to focus its efforts in areas that are currently unserved or underserved.

The bill contains a specific list of information required to be reported, but also provides the director of the DCCA with the flexibility necessary to amend that list to respond to the rapid changes in technology and in the industry. In the past, the industry has expressed concern about the ability to keep this information confidential. This bill addresses this concern by protecting this information from public disclosure to the extent that it is confidential business information. Further, this confidential business information may not be shared with other state agencies in a manner that is inconsistent with its collection. Non-confidential information on a provider's ownership, financial, technical, and operational conditions will be required to be reported in a form determined by the director, which will be made available the public.

In closing, the Department believes that this bill will strengthen the State's understanding of a critical industry, allowing it to establish and continually adapt policies to ensure the development of broadband communications infrastructure and access to broadband services throughout the State.



**Sandwich Isles
Communications, Inc.**

A Waimana Company

**ROBERT KIHUNE
CHIEF EXECUTIVE OFFICER
SANDWICH ISLES COMMUNICATIONS, INC.**

**TO
THE HOUSE OF REPRESENTATIVES
COMMITTEE ON CONSUMER PROTECTION & COMMERCE ON
JANUARY 30, 2012 - 2:00 P.M.**

**HB2526 RELATING TO REPORTING REQUIREMENTS FOR
TELECOMMUNICATIONS AND CABLE TELEVISION PROVIDERS**

oppose

Chair Herkes and members of the House Consumer Protection and Commerce Committee:

I am Robert Kihune, Chief Executive Officer of Sandwich Isles Communications (SIC), providing comments on HB2526, Relating to Reporting Requirements for Telecommunications and Cable Television Providers.

We agree that the telecommunications industry is an essential element of the State's economy and vital to the health and welfare of all in the State. We further concur that a complete and thorough understanding of the operations of the telecommunications industry and cable television industry would assist with the administration of effective policies to support and grow a competitive, stable and robust industry for the benefit of the State's economy and consumers, and for the well-being of the public at large. However, as drafted, we believe the

requirements in HB2526 would impose an undue burden on the state's telecommunications and cable providers with no support, financial or otherwise, and little specific justification. Conversely, the measure would impose hefty civil penalties, with no limit, for failing to comply. We question the value and wisdom of a bill that would unnecessarily drive up costs during these uncertain economic times.

A rough analysis determined that the requirements imposed in this bill would require significant start-up costs exceeding \$51,000 and more than \$2,500 in ongoing costs per report. These unrecoverable and uncompensated cost estimates do not include any equipment, software or hardware that may need to be purchased to implement the requirements set forth in the measure.

Furthermore, we believe a complete and thorough understanding of the operations of the telecommunications industry and cable television industry can be better achieved collaboratively and voluntarily, not by imposing unfunded mandates legislatively.

We have serious concerns with this bill, as drafted, but are willing to work with the Department of Commerce and Consumer Affairs (DCCA) on meaningful solutions that will provide the DCCA with the information they need without posing onerous and excessive requirements on telecommunications and cable companies.

Thank you for the opportunity to provide testimony.

Testimony for HB2526 on 1/30/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Friday, January 27, 2012 2:58 PM
To: CPCtestimony
Cc: daniel.youmans@att.com
Attachments: HB2526_AT&T Testimony_2-27~1.doc (85 KB)

Testimony for CPC 1/30/2012 2:00:00 PM HB2526

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Daniel Youmans
Organization: AT&T
E-mail: daniel.youmans@att.com
Submitted on: 1/27/2012

Comments:



Dan Youmans
President - Washington/Hawaii
External Affairs

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January 27, 2012

The Honorable Rep. Robert N. Herkes;
Chair, Committee on Consumer Protection & Commerce
Hawaii House of Representatives

OPPOSE

*Re: Testimony on House Bill 2526
Hearing before the House Committee on Consumer Protection & Commerce
1-30-12, 2:00pm, Conference room 325*

Representative Herkes and Members of the Committee:

Thank you for this opportunity to express AT&T's position on House Bill 2526. AT&T certainly supports the availability of broadband services to all Americans. To that end, we are active on Hawaii's Broadband Task Force. However, we are concerned that HB 2526 will impose additional burden and cost on telecommunications carriers to produce data that is either already provided to the Hawaii Department of Commerce and Consumer Affairs ("Department") or has little value.

House Bill 2526 would require telecommunications carriers to provide to the Department information, broken down by county, concerning data centers, network maps, bandwidth connections, subscriber connections, network nodes, network availability, bandwidth utilization, and much more. Additionally, the Department may request from a provider any additional information that the Department deems is necessary to perform its responsibilities. It is not clear when or how often this information would be required. That too is left to the Department's discretion.

Providing the information required by this legislation would impose additional burden and cost on telecommunications carriers, with little or no benefit to Hawaii. Carriers would have to develop and implement a method for capturing information not currently captured. Yet, it is not clear how this information would be used by the Department and to what end. The legislation does not answer these questions.

Of equal importance, the Department already has access to important information related to the provisioning of broadband in Hawaii by telecommunications carriers. In 2010, the Department was awarded a grant from the federal government to assist the State in gathering and verifying data on the availability, speed, location, and technology type of broadband services. The Department teamed with the University of Hawaii's Pacific Disaster Center for this effort, called the Hawaii Broadband Map Initiative. AT&T has worked cooperatively with the University by providing information relevant to AT&T's broadband deployment and operations in Hawaii.

In sum, the Department already has access to meaningful information about broadband provisioning in Hawaii by telecommunications carriers. HB2526's requirement for duplicative and additional information would be burdensome to produce and divert carrier resources from expanding broadband availability. For these reasons, we oppose HB 2526.

Respectfully Submitted,

Dan Youmans, AT&T

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
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EMAIL: oip@hawaii.gov

To: House Committee on Consumer Protection and Commerce

From: Cheryl Kakazu Park, Director

Date: January 30, 2012, 2:00 p.m.
State Capitol, Room 325

Re: Testimony on H.B. No. 2526
Relating to Reporting Requirements for Telecommunications
and Cable Television Providers

Thank you for the opportunity to submit testimony on H.B. No. 2526.

The Office of Information Practices (OIP) supports the substance of this bill, which would require reporting by telecommunications and cable television providers to the Department of Commerce and Consumer Affairs. OIP, however, seeks clarification of proposed section (6)(a), at bill page 11 lines 1-7.

Under this provision, even if public disclosure would ordinarily be required under the UIPA, data reported to DCCA would be confidential unless determined to be public by DCCA's director. Notably, the UIPA, in section 92F-13, HRS, already provides exemptions from public disclosure that are applicable to information in government records that consists of trade secrets and confidential business information. As drafted, however, the bill's section (6)(a) would make confidential any data in a statement or report, regardless of whether it would actually fall within an exception to disclosure under the UIPA.

Whether to provide the confidentiality provision proposed for the records covered by this bill is a policy decision for the Legislature. However, OIP notes that it would be a departure from the underlying intent of the UIPA to provide a uniform

standard for records disclosure. OIP is also concerned that the provision gives DCCA's director full discretion to determine whether information will become public, which would make that determination generally unreviewable.

Thank you for the opportunity to testify.

Testimony for HB2526 on 1/30/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, January 30, 2012 8:18 AM

To: CPCtestimony

Cc: anakama@wik.com

Attachments: HB 2526 testimony.pdf (29 KB)

Testimony for CPC 1/30/2012 2:00:00 PM HB2526

Conference room: 325

Testifier position: Oppose

Testifier will be present: Yes

Submitted by: Allison

Organization: Oceanic Time Warner Cable

E-mail: anakama@wik.com

Submitted on: 1/30/2012

Comments:

200 Akamainui Street
Mililani, Hawaii 96789-3999
Tel: 808-625-2100
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Honorable Robert N. Herkes, Chair
House Committee on Consumer Protection & Commerce
Hawaii State Capitol
Honolulu, HI 96813

RE: HB2526 – Relating to Reporting Requirements for Telecommunications and Cable Television Providers – CONCERNS

January 30, 2012; 2:00 p.m., Hawaii State Capitol Room 325

Aloha Chair Herkes, Vice Chair Yamane, and members of the committee,

On behalf of Oceanic Time Warner Cable (Oceanic), which provides a diverse selection of entertainment, information, and communication services to over 425,000 Hawaii households, schools and businesses and currently employs more than 1,000 highly-trained individuals, we appreciate the opportunity to express our concerns on HB2526 – Relating to reporting requirements for telecommunications and cable television providers.

Oceanic is supportive of the Governor's Broadband Initiative and is an active member of the Broadband Assistance and Advisory Council and Broadband Working Group. We continue to support the state's expansion of broadband infrastructure that is in line with consumer and market demands.

Recently, Oceanic was informed that the purpose for this bill is to provide information for planning and for expanding the deployment of broadband in the state. However, as currently drafted, we see unintended consequences that will have serious implications on broadband deployment.

Among our concerns regarding HB2526:

1. Reporting requirements would be costly to administer.
 - Disruptive to Oceanic's current business processes – substantial time and manpower would be diverted from actual building of broadband network to provide the immense amount of detailed reports being requested;

- Highly burdensome on broadband providers and would require additional staffing just to keep up with reporting requirements;
 - Increases overall burden and cost of doing business and ultimately would increase cost of services to consumers; and
 - Likely to slow down future deployment of upgrades and expansion.
2. Onerous requirements for providers to submit reports on highly proprietary information including but not limited to:
- ALL DATA CENTER LOCATIONS AND OPERATIONS MAPS;
 - DETAILED CONNECTION INFORMATION, including number of connections supplied, bandwidth of each connection and upstream backhaul providers; numbers of network nodes and locations including connection speeds and number of subscriber connections; and
 - FINANCIAL INFORMATION including income statements, balance sheets, and cash flow statements on a periodic basis and an annual independent financial audit.
3. Subjects Oceanic's proprietary and competitive information to be shared publicly.
- Product design and operations are normal a function a company conducts internally to protect valuable proprietary processes and trade secret information from public discussion; and
 - Use of information could be used to give advantage to providers without sharing of investment made by existing broadband providers.
4. No other states subject telecommunications and cable television providers to similar reporting requirements – this would have a chilling effect on broadband deployment in the state.
- Broadband providers could stop investing in the network if they are subject to these requirements; and
 - This also would be a disincentive to other carriers from entering the Hawaii market.

For these reasons, we respectfully ask the committee to carefully consider our concerns regarding HB2526.

As always, we appreciate the opportunity to offer our testimony on this bill.

Sincerely,

Bob Barlow
President of Oceanic Time Warner Cable

Testimony for HB2526 on 1/30/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, January 30, 2012 9:07 AM
To: CPCtestimony
Cc: nipfire@hawaii.rr.com
Attachments: Hawaii -- HB 2526 Testimo~1.docx (22 KB)

Testimony for CPC 1/30/2012 2:00:00 PM HB2526

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael Bagley
Organization: Verizon Wireless
E-mail: nipfire@hawaii.rr.com
Submitted on: 1/30/2012

Comments:



**Testimony of Michael Bagley
Director of Public Policy for Verizon
Before the
Consumer Protection and Commerce Committee
On H.B. 2526
January 30, 2012**

The Honorable Representative Robert Herkes
Chairman
Committee on Consumer Protection & Commerce
Hawaii House of Representatives

***Re: H.B. 2526 -- Reporting Requirements for Telecommunications and Cable
Television Providers***

Chairman Herkes and Members of the Committee:

On behalf of Verizon, I submit testimony in opposition to H.B. 2526 and urge the Committee to defeat this legislation.

Verizon is proud to be a leading technology company that has been at the forefront of innovation for broadband services through the deployment of 4G Long-term Evolution (LTE) and FIOS in limited markets. 4G LTE represents the most efficient and highest speed wireless broadband available, allowing customers to download songs in seconds and movies in minutes.

Verizon wants to be a strong partner with the State of Hawaii with regard to broadband deployment, but we must respectfully oppose H.B. 2526, which we believe would have a harmful impact on our ability to serve the broadband needs of our customers and the State. New burdensome regulations and reporting requirements send exactly the wrong signal to businesses like ours that want to expeditiously and efficiently deploy the resources and infrastructure necessary for broadband.

Specifically, H.B. 2526 would:

Be overly intrusive into our business, demanding extensive resources to gather data that does not directly serve the needs of Hawaii consumers; and worst, divert limited resources that could instead be used to build out the broadband network itself. Rather than spend limited capital on “bureaucratic overreach,” we believe that such capital would be more effectively used on infrastructure build-out and deployment.

The bill sets requirements for the collection and delivery of highly proprietary and sensitive data that would make competitors vulnerable as they compete aggressively in the marketplace.

The bill calls for extremely detailed data requests that identify no clear purpose for why the information is being asked or for what purpose the data would be used.

We are also troubled by the reality that businesses that would be impacted and are targeted by the legislation were industries who would be targeted by the legislation were not consulted in advance, and therefore have had no opportunity to fully raise issues related to both the unintended and intended consequences of H.B. 2526. There should be a more collaborative process with industry to discuss and review what the Department of Commerce and Consumer Affairs (DCCA) is seeking to achieve, so that providers such as Verizon can responsibly advise on what kind of data we can more readily provide without onerous requirements that burden our business. We believe that a blind request for data that is costly and difficult is the wrong approach.

Unfortunately, this legislation does not send a positive and encouraging signal to businesses about how Hawaii wants to approach cooperative interaction on broadband, and has high potential to directly discourage broadband deployment in the State, which is the opposite goal that the Governor and the Legislature would want to achieve.

We ask for a “NO” vote on H.B. 2526. Thank You.