

LATE TESTIMONY

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

FEBRUARY 7, 2012

MEASURE: H.B. No. 2654

TITLE: Relating to Telecommunications and Cable Television Services

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure proposes to consolidate broadband development functions and the regulation of both telecommunications and cable services in the State, which would be carried out under a single body to be called the Communications Commission. This Communications Commission would be part of the Department of Business, Economic Development, and Tourism ("DBEDT"). All current regulatory functions for telecommunications and cable services would be transferred to the Communications Commission from the Public Utilities Commission ("PUC") and the Department of Commerce and Consumer Affairs ("DCCA"), respectively, and conforming amendments throughout the Hawaii Revised Statutes would be made where appropriate. In addition, this measure would fund the Communications Commission's operations through a new Hawaii communications commission special fund to be filled by 1) claiming a portion of the PUC special fund paid by telecommunications carriers, 2) utilizing the balance on June 30, 2012, in the cable television division subaccount in the compliance resolution fund, and 3) collecting proceeds from a new regulatory fee. The measure also would transfer up to fourteen employees from DCCA to staff the Communications Commission under DBEDT.

POSITION:

The PUC supports the intent to create a "one stop shop" for broadband development and the regulation of telecommunications and cable services within the State, but the

PUC prefers the approach outlined in H.B. 2524¹. The PUC would also like to offer comments for the Committee's consideration.

COMMENTS:

The 2012 administration package includes H.B. 2524 which would also create a similar communications commission for purpose of the consolidating State broadband functions and the regulation of both telecommunications and cable services. However, the communications commission described in H.B. 2524 would be part of DCCA, rather than part of DBEDT, as this measure proposes. H.B. 2524 outlines a systematic transfer of the powers and duties of the PUC relating to telecommunications. H.B. 2654, as it relates to the PUC, does not appear to be as comprehensive as H.B. 2524 in how it transfers telecommunications operations from the PUC to DBEDT.

Should this measure move forward, the PUC would like to work with the Committee to ensure appropriate amendments are made to HRS Chapter 269, and that the complicated process for transferring records, fees, and funding between agencies is carefully considered and a clear plan is established.

Thank you for the opportunity to testify on this measure.

¹ The PUC recognizes that S.B. 2786 is the companion to H.B. 2524, as both are measures introduced as part of the administrative package proposing, as currently written, the same consolidation of broadband development functions and telecommunications and cable services regulation for the State within a communications commission to be established under DCCA.

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COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

State of Hawaii House of Representatives

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

Testimony **AGAINST** HB2654 – Relating to Telecommunications and Cable Television Services as currently written.

My name is Jay April, President and CEO, Akaku: Maui Community Television Member of the HCR358 Legislative Task Force

This well intentioned bill is similar to failed efforts in 2009 to set up a Hawaii Communications Commission except this bill would transfer cable regulation away from the DCCA and curiously put it under DBEDT. There are many flaws in this bill and at first glance, it appears that there are other bills before the legislature this year, in particular one that consolidates Cable TV, Broadband telephone and Telecommunications under DCCA aegis that may be more comprehensive and workable.

Chief among the problems with this legislation is the choice of a single Commissioner instead of a more diverse panel of three or more and the failure of this current draft of this legislation to address, encourage and promote public interest broadband and broadband infrastructure that could be built by state and county governments, public/private partnerships, public utilities, non profit agencies and community anchor institutions such as PEG access centers. There are more than 400 similarly successful broadband build outs in the United States whose customers enjoy faster speeds, better prices, advanced public interest benefits and vastly better services as a result of an approach that does not only support entrenched wireline and wireless incumbents.

With regard to cable, by repealing many aspects of 440G, this bill removes the statutory floor upon which PEG access is built, significantly diminishes PEG access funding and in doing so, hurts ongoing public spirited efforts to foster widespread broadband adoption and advocacy particularly with respect to the innovation currently enjoyed in places like Maui County.

HB2654 does not require any franchise fee percentage in support of PEG. It only requires that a franchise applicant submit some sort of vague plan for any support of PEG and appears to seriously dilute the cable franchise renewal process and the participation of local stakeholders and the public in those important negotiations which Maui and Kauai are about to embark on in the very near future. It treats PEGs with the same oversight and penalties as the big guys

(cable operators and telecommunication carriers) with fines as high as \$25,000 per day. It is difficult to understand the rationale behind regulating a non profit PEG in the exact same manner as the big for profit companies that take hundreds of millions out of our islands every year.

This bill needs a lot more work if it is to be a viable alternative to the current regulatory model.

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 5:50 PM
To: ERBtestimony
Cc: thirr33@gmail.com
Subject: LATE TESTIMONY - Testimony for HB2654 on 2/7/2012 8:30:00 AM

Testimony for ERB 2/7/2012 8:30:00 AM HB2654

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Arvid Tadao Youngquist
Organization: The Mestizo Association
E-mail: thirr33@gmail.com
Submitted on: 2/6/2012

Comments:

Chair, Vice Chair and Members of the Committee House of Representatives, State of Hawaii

We oppose the intent of HB 2654.

Suggest either an amendment provided by Life of the Land, defer or hold it, or re-draft it through the original sponsors.

Aloha no,

Arvid Tadao Youngquist
Founder & Editor
The Mestizo Association (est. 1982)
Fprt Shafter, Honolulu, HI