



NEIL ABERCROMBIE  
GOVERNOR

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LT. GOVERNOR

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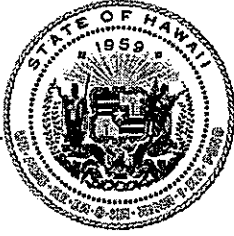
KEALI'I S. LOPEZ  
DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE  
TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012  
March 29, 2012, 3:00 p.m.

WRITTEN TESTIMONY ON SB 2235, SD2, HD1 - RELATING TO BROADBAND

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

I am Donn Yabusaki, Cable Television Administrator for the Department of Commerce and Consumer Affairs (DCCA). The DCCA appreciates the opportunity to express its support for the general intent of S.B. No. 2235, S.D.2, HD1, which is to accelerate the deployment of broadband infrastructure throughout the State to strengthen our State's economic future and enhance the quality of life of our residents. The DCCA, however, defers to the appropriate government agencies on the substantive impacts of the bill.



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

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**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

**HOUSE COMMITTEE ON FINANCE**

Thursday, March 29, 2012

3:00 PM

State Capitol, Conference Room 308

In consideration of

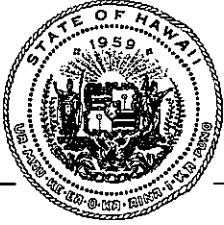
**SB 2235, SD2, HD1**

**RELATING TO COMMUNICATIONS TECHNOLOGY.**

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Department of Business, Economic Development and Tourism (DBEDT) **supports the intent of SB 2235, SD2, 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. We will defer further comment on this to the responsible regulatory agency.

We respectfully request correction of the defective effective date and assure clear passage of this bill. 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  
DIRECTOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

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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 FINANCE**  
Thursday, March 29, 2012  
3:00 PM  
State Capitol, Conference Room 308

in consideration of  
**SB 2235 SD2 HD1**  
**RELATING TO COMMUNICATIONS TECHNOLOGY.**

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The SMA, a subset of the larger coastal zone, generally extends inland from the shoreline to the nearest highway. This is the most sensitive area of the coastal zone, within which the legislature determined that special controls on developments were needed to (1) avoid permanent losses of valuable resources and the foreclosure of management options, (2) ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided, and (3) preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. See HRS §205A-21. Within this narrow band around the coast, proposed "development" is required to obtain an SMA permit from the respective county within which it is located. For a small subset of proposed "development" within the SMA in the community development district designated by the legislature, the SMA approval is sought from OP. See HRS §206E-8.5.

SB 2235 SD2 HD1 proposes to add a new section to HRS Chapter 27, part VII, that provides for automatic approval of state permit applications for broadband related permits if action on the permit is not taken within 60 business days of a complete permit application and full payment of any applicable fee. State permits for which approval of a federal agency is explicitly required pursuant to federal law, rule or regulation, prior to granting final permit approval by the State are not subject to the 60 business day action deadline.

The bill also adds similar provisions above to HRS Chapter 46 for broadband related county permits.

OP supports the intent of this bill to streamline permitting for development of broadband facilities. The 60 business day time period provides consistency with existing OP regulations for the processing of SMA approvals within designated community development districts.

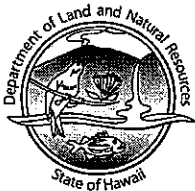
While OP oversees the SMA permitting process statewide, HRS Chapter 205A delegates processing of SMA permits for areas other than those within designated community development districts to the counties, who have developed their own permit processes and timeframes. At minimum, the process requires a public hearing and the right of the applicant to be heard and present evidence. OP defers to the counties with regard to the adequate timeframe to take action on a complete SMA permit application.

OP is working with state agencies to develop a streamlined process for state projects that maintains consistency with the federal and state approved CZM Program. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric Administration (the federal agency which funds the state's CZM Program). The Administration will have a proposed bill to address these issues in the next legislative session.

In the interim, OP supports certain stop-gap bills that exempt certain state projects from SMA permitting, because those bills include a sunset date, do not change HRS Chapter 205A, and provide that the affected agencies will consult with the CZM Program on consistency.

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

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
FINANCE**

**Thursday March 29, 2012  
3:00 P.M.  
State Capitol, Conference Room 308**

**In consideration of  
SENATE BILL 2235, SENATE 2, HOUSE DRAFT 1  
RELATING TO COMMUNICATIONS TECHNOLOGY**

Senate Bill 2235, Senate Draft 2, House Draft 1 proposes to require the approval of state and county permits for broadband related permits within sixty days of submission of a complete permit application. If on the sixty-first 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 comments 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 sixty 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 broadband facilities, including telecommunication facilities being proposed on our scenic and fragile ridges and hilltops under the stringent processing requirements proposed by this measure. The Department currently processes 95 percent of broadband permits affecting Conservation District lands within 45 days, because it already has implemented streamlining via its rules (Title 13-5, Hawaii Administrative Rules). However, for new broadband facilities that may impact sensitive ecological/cultural resources, the minimum amount of time the Department would need to process a CDUA would be 120 days.

The Department reiterates that a more reasonable timeframe than sixty 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  
STATEPARKS

SB 2235 SD2 HD1

RELATING TO COMMUNICATIONS TECHNOLOGY  
AGENDA #5

KEN HIRAKI  
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS  
HAWAIIAN TELCOM  
March 29, 2012

Chair Oshiro and members of the Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom (HT) on SB 2235 SD2 HD1.

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 joint utility pole owners 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 while not including the other joint utility pole owners Hawaiian Electric and Hawaiian Telcom from liability as well.

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

Same amendment language for two places in the bill: 1) page 1, lines 15-18; and 2) page 4, lines 1-4:

**“(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.”**

In addition, HT supports the following clarifying amendment to address the concern related to maintaining public safety standards consistent with Act 151 (2011) when upgrading utility poles:

Same amendment language for two places in the bill: replace existing language on 1) page 2, lines 15-18; and 2) page 4, line 19-22 and replace with the following:

**“(f) Nothing in this section shall affect the provisions of section 3 of Act 151, Session Laws of Hawaii 2011.”**

Based on the aforementioned, Hawaiian Telcom respectfully requests the proposed amendments be considered.

Thank you for the opportunity to testify.



**Testimony of Michael Bagley  
Director of Public Policy for Verizon  
Before the  
Committee on Finance  
On S.B. 2235 S.D.2 H.D.1 with Amendments  
March 29<sup>th</sup>, 2012**

The Honorable Marcus R. Oshiro  
Chair, Committee on Finance  
Hawaii State House of Representatives

**Re: SB 2235 SD2 HD1- Relating to Communications Technology – Testimony in SUPPORT with AMENDMENTS**

Dear Chairman Oshiro and Members of the Committee,

On behalf of Verizon, I appreciate the opportunity to testify in support of proposed S.B. 2235 S.D.2 H.D.1 amendments that will extend the 45 day streamline permit approval process to the deployment of wireless broadband facilities. The passage of this legislation will encourage private investment for the more rapid deployment of wireless broadband infrastructure and will help to expedite the availability of advanced services to the people of Hawaii.

Currently, the local permitting processes that wireless broadband service providers must follow to upgrade or construct new facilities, reflects a fractionalized and inconsistent mix of ordinances and regulatory requirements across counties. The lack of continuity in the application process between counties hinders statewide deployment of advanced broadband services to the communities that we serve. Additionally, the absence of a reasonable timeline that is applicable to all state and county government agencies involved in the permitting process, leads to extensive delays. Such delays discourage private investment and further exacerbate the development and expansion of the broadband communications infrastructure throughout Hawaii.

Verizon seeks support for S.B. 2235 S.D.2 H.D.1 amendments to clarify that “wireless” broadband facilities are explicitly included in the streamline permit process and therefore treat wireless broadband deployment with the same deference and priority as cable service broadband deployments. This can be achieved by simply adding “*wireless telecommunications facilities*” to Section 1, Chapter 27 (g) and to Section 2, Chapter 46 (g) under the types of services that qualify for “broadband related permits.”

*(g) For the purposes of this section, "broadband-related permits" means all county permits required to commence actions with respect to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including wireless telecommunications facilities, the interconnection of telecommunications cables, cable installation, tower construction, and undersea boring, or the landing of an undersea cable....*



The above amendments will help to streamline the permitting process and to avoid the excessive delays that wireless service providers experience today. In addition to strict adherence to a 45 day approval timeline for all state permit approvals, the 10 day window for state to confirm if an application is complete or notify applicant of what is missing, is also a critical component to ensure the expeditious deployment of wireless broadband infrastructure.

Verizon also wants to be a strong partner with the State of Hawaii with regard to broadband deployment however Hawai'i has earned the reputation for long delays in the deployment of wireless facilities. It is not unusual to take four or five years for wireless carriers to erect a new structuring Hawai'i, a process that may require only 18 months in other states. The current permitting process needs to be fixed. Antiquated policies and processes do not adequately serve the wireless users across counties and are also inconsistent with the Governor and the State's commitment to foster innovation and economic development. Considering the challenging topography of the state that geographically isolates many communities, "wireless" high-speed broadband is a key component to a comprehensive and robust statewide deployment of advanced services to the people of Hawaii.

Verizon commends the Governor, the Legislature, and other key stakeholders in the State for showing leadership with regard to the goal of advancing broadband deployment. As a leading technology company, Verizon is proud of its investments nationwide to deliver high quality broadband services on a 4th Generation platform known as Long-term Evolution (4G LTE). 4G LTE represents the most efficient and highest speed wireless broadband available. In the rapid evolution of wireless broadband, 2G allowed consumers the opportunity to experience digital voice and text messaging. 3G took wireless broadband to the next level, providing a platform for smart phones, web browsing, and numerous apps. 4G LTE establishes a new global standard: ultra-fast speeds that download songs in seconds and movies in minutes; video conferencing; machine-to-machine applications; and more. Our 4G network is not 1G above 3G, but is a broadband network that is ten times faster than current 3G networks.

Verizon doesn't just develop advanced cutting edge broadband technology, we also invest heavily in our network deployment, and are pleased that we have spent over \$300 million in the State of Hawaii since 2000, to ensure that our customers in this State have the best network, an investment that we do not pass the cost on to the customer because we want to earn their trust and loyalty.

The dynamic and exponential growth of the wireless industry is testimony to the value consumers and businesses place on their communications services. The wireless industry consistently drives unparalleled innovation of high technology products and accelerates public adoption of advanced broadband services. S.B. 2235 SD.2 HD.1 takes the appropriate steps to address this problem by streamlining the permitting process for the deployment of advanced cable and wireless broadband services, fostering innovation, economic development and encouraging private investment in the state to build a robust and sophisticated, telecommunications infrastructure.

In closing, Verizon Wireless respectfully asks Chairman Oshiro and Members of this Committee, to *Support, with AMENDMENTS, Senate Bill 2235 S.D.2 HD 1.*

Thank you.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 29, 2012 7:12 AM  
**To:** FINTestimony  
**Cc:** joyce.masamitsu@verizonwireless.com  
**Subject:** Testimony for SB2235 on 3/29/2012 3:00:00 PM  
**Attachments:** Testimony SB 2235 SD2 HD 1 - FIN 3 29 12.docx

Testimony for FIN 3/29/2012 3:00:00 PM SB2235

Conference room: 308  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Michael Bagley  
Organization:  
E-mail: [joyce.masamitsu@verizonwireless.com](mailto:joyce.masamitsu@verizonwireless.com)  
Submitted on: 3/29/2012

### Comments:

Verizon seeks support for S.B. 2235 S.D.2 H.D.1 with amendments to clarify that "wireless" broadband facilities are explicitly included in the streamline permit process and therefore treat wireless broadband deployment with the same deference and priority as cable service broadband deployments. This can be achieved by simply adding "wireless telecommunications facilities" to Section 1, Chapter 27 (g) and to Section 2, Chapter 46 (g) under the types of services that qualify for "broadband related permits."

(g) For the purposes of this section, "broadband-related permits" means all county permits required to commence actions with respect to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including wireless telecommunications facilities, the interconnection of telecommunications cables, cable installation, tower construction, and undersea boring, or the landing of an undersea cable...

The above amendments will help to streamline the permitting process and to avoid the excessive delays that wireless service providers experience today. In addition to strict adherence to a 45 day approval timeline for all state permit approvals, the 10 day window for state to confirm if an application is complete or notify applicant of what is missing, is also a critical component to ensure the expeditious deployment of wireless broadband infrastructure.



Dan Youmans  
President - Washington/Hawaii  
External Affairs

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March 29, 2012

The Honorable Rep. Marcus Oshiro  
Chair, Committee on Finance  
Hawaii House of Representatives

*Re: Proposed AMENDMENT to SB 2235 SD2 HD1  
Hearing before the House Committee on Finance  
3 p.m., March 29, Room 308*

Representative Oshiro and Members of the Committee:

Thank you for this opportunity to express AT&T's position on Senate Bill 2235 SD2 HD1.

AT&T urges the committee to amend this bill so that wireless facilities receive the same streamlining benefits as wire line facilities. Wireless broadband has become a critical communications tool. By streamlining the permitting process, wireless carriers can offer these services to consumers in a much faster and more efficient way.

In Senate Bill 2235, this can be achieved by adding "*wireless telecommunications facilities*" to Section 1, Chapter 27 (g) and to Section 2, Chapter 46 (g) under the types of services that qualify for "broadband related permits."

*(g) For the purposes of this section, "broadband-related permits" means all county permits required to commence actions with respect to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including wireless telecommunications facilities, the interconnection of telecommunications cables, cable installation, tower construction, and undersea boring, or the landing of an undersea cable....*

Thank you for considering this request. Please contact me if you have any questions.

Respectfully Submitted, Dan Youmans, AT&T

## Testimony before the House Committee on Finance

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

Thursday, March 29, 2012  
3:00 pm, Conference Room 308

### SB 2235 SD2 HD1 - Relating to Communications Technology

Chair Oshiro, Vice 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 concerns with SB 2235 SD2 HD2 as written:

1. 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 Hawaiian Electric Company and current telecommunication entities.

We therefore suggest the following amendments for your consideration:

1. In reference to pg. 1, line 15, SECTION 1(c) should 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.*"
2. Similarly, in reference to pg. 4, line 1, SECTION 2(c) should 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.



**Sandwich Isles  
Communications, Inc.**

*A Waimana Company*

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

**TO  
THE HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCE ON  
MARCH 29, 2012 - 3 P.M.**

**SB2235, SD2, HD1 RELATING TO COMMUNICATIONS TECHNOLOGY**

Chair Oshiro and members of the House Finance Committee:

I am Robert Kihune, Chief Executive Officer of Sandwich Isles Communications (SIC), providing testimony in support of SB2235, SD2, HD1, Relating to Communications Technology.

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 requiring state and county agencies to approve, approve with modifications, or disapprove all broadband related permits within 60 days 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.