

**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
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

Thursday, March 15, 2012

9:45 AM

State Capitol, Conference Room 312

In consideration of

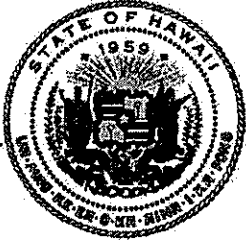
SB 2235 SD2 PROPOSED HD1 RELATING TO COMMUNICATIONS TECHNOLOGY.

Chair McKelvey, Vice Chair Choy, and Members of the House Committee on Economic Revitalization & Business:

The Department of Business, Economic Development and Tourism (DBEDT) **supports the intent and offers comments on SB 2235 SD2 PROPOSED 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.



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Statement of **LATE TESTIMONY**
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

Tuesday, March 13, 2012

8:30 AM

State Capitol, Conference Room 312

In consideration of

SB 2235 SD2 RELATING TO COMMUNICATIONS TECHNOLOGY.

Chair McKelvey, Vice Chair Choy, and Members of the Committee on Economic Revitalization & Business:

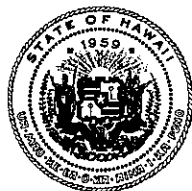
The Department of Business, Economic Development and Tourism (DBEDT) supports SB 2235 SD2 which adds broadband to the list of top priorities to achieve the State's economic objectives and requires DBEDT to report to the Governor and the Legislature on broadband activities.

Further, SB2235 SD2 requires DBEDT to report annually to the Governor and the Legislature on the status of efforts to promote and deploy broadband services. DBEDT recognizes the subject matter of the report to be exactly in alignment with the Governor's Hawaii Broadband Initiative. The report is also in alignment with DBEDT's core mission to collect and analyze economic data, given that broadband is considered one of the key elements of innovation economy infrastructure.

These new reports will require collection of new data, which will be critical in making sound policy decisions; however, DBEDT currently has no funding to fulfill this new reporting requirement. Because it appears to be an unfunded mandate, we respectfully request the legislature provide additional funding to DBEDT for this purpose.

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

22.4



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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

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TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
TWENTY-SIXTH LEGISLATURE
Regular Session of 2012
Thursday, March 15, 2012, 9:45 a.m.

WRITTEN TESTIMONY ON
SB 2235 SD2, Proposed HD1 - RELATING TO BROADBAND
By Donn Yabusaki, Cable Television Administrator
Department of Commerce and Consumer Affairs.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department appreciates the opportunity to express its support for the general intent of S.B. No. 2235, S.D.2, Proposed HD1, to accelerate the deployment of broadband infrastructure throughout the State. However, the Department defers to the appropriate government agencies on the impact of the deemed automatic approval.

The Department also supports the original language in SD2, which establishes a state policy to promote broadband as critical infrastructure. The Department believes that the inclusion of a clear and consistent policy in the State plan would help guide the State's long-range economic development planning to achieve world-class broadband access at comparable prices throughout the State by 2018, a goal also set by the Governor's Hawaii Broadband Initiative.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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OFFICE OF THE DIRECTOR
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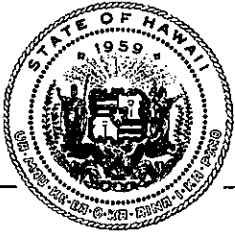
TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
TWENTY-SIXTH LEGISLATURE
Regular Session of 2012
Tuesday, March 13, 2012
8:30 a.m.

WRITTEN TESTIMONY ON SB 2235 SD2 - RELATING TO BROADBAND
By Donn Yabusaki, Cable Television Administrator
Department of Commerce and Consumer Affairs.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department appreciates the opportunity to express its strong support for S.B. No. 2235 SD2, which establishes a state policy to promote broadband as critical infrastructure.

The Governor's Hawaii Broadband Initiative ("HBI") embraces this policy, recognizing that broadband infrastructure is vital to our State's economy and to the health, welfare and quality of life of all our residents, and charging the State's agencies to work with other government and private entities to achieve world-class broadband access at an affordable price throughout the State by 2018. The inclusion of a clear and consistent policy and objective in the Hawaii state plan will help in guiding the State's long-range economic development planning toward that goal.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
DIRECTOR
MARY ALICE EVANS
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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 ECONOMIC REVITALIZATION AND BUSINESS

Thursday, March 15, 2012
9:15 AM
State Capitol, Conference Room 312

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

Chair McKelvey, Vice Chair Choy, and Members of the House Committee on Economic Revitalization and Business.

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 subset of proposed "development" within

2012

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 Proposed 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 45 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 45 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. However, for SMA approvals under the jurisdiction of OP (those within a designated community development district), we recommend that the review and action be made within 60 business days of submission of a complete application and full payment of any application fee. This time period will provide 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.

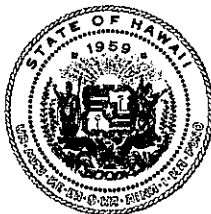
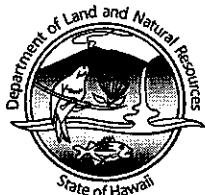
OP is working with state agencies to develop a streamlined process for state projects that maintains consistency with the federal and state approved CZM Program. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric 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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HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
ECONOMIC REVITALIZATION & BUSINESS

Thursday March 15, 2012
9:45 A.M.
State Capitol, Conference Room 312

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

Senate Bill 2235, Senate Draft 2, Proposed 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 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 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 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 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

SB 2235 SD2 (PROPOSED HD1)

RELATING TO COMMUNICATIONS TECHNOLOGY

**KEN HIRAKI
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM
March 15, 2012**

Chair McKelvey and members of the Committee:

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

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 proposed HD1: 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 proposed HD1: 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 amendment be considered.

Thank you for the opportunity to testify.

Testimony before the House Committee on Economic Revitalization & Business

By Tracy Nishibun
Facilities Attachment Program Manager
Hawaiian Electric Company, Inc.

Thursday, March 15, 2012
9:45 am, Conference Room 312

SB 2235, Proposed HD 1
Relating to Communications Technology

Chair McKelvey, Vice Chair Choy, and Members of the Committee:

My name is Tracy Nishibun 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 the proposed House Draft 1 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.



Dan Youmans
President –Washington/Hawaii
External Affairs

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March 15, 2012

The Honorable Rep. Angus McKelvey
Chair, Committee on Economic Revitalization and Business

*Re: Testimony SUPPORTING, WITH AMENDMENTS Proposed SB 2235 SD2 HD1
Hearing before the House Committee on Economic Revitalization and Business
9:45 a.m., March 15, Room 312*

Rep. McKelvey and Members of the Committee:

AT&T supports Proposed Senate Bill 2235 SD2 HD1 with amendments to include permits for wireless telecommunications facilities. Because wireless broadband services are so highly valued by consumers today – especially the use of smart phones and pads – it only makes sense that streamlined processes are also available to wireless broadband facilities.

The bill can be simply amended by adding the term “wireless telecommunications services” to Section 1, Chapter 27 (g) and Section 2 Chapter 46 (g) under the types of services that qualify for “broadband related permits.”

We have arrived at a very exciting time in the wireless industry. Most carriers, including AT&T, are embarking on the deployment of new Long Term Evolution (LTE) technology in our networks. These speeds will be much faster than the current 3rd Generation technology. These network improvements will be most notable in the speed at which hundreds of thousands of applications can run. From business operations to health care to public safety to education, people are finding new and beneficial uses for their smart phones and pads. We want to deliver those great experiences with faster wireless broadband services.

This is especially true in Hawaii where AT&T continues to invest and upgrade our network. In fact, over the period of 2009-2011, AT&T invested nearly \$100 million in its wireless and wireline networks, including adding new cell sites, faster fiber-optic connections, and greater capacity in our cell sites. We plan to continue investing in Hawaii, but would certainly benefit from a more streamlined approach to permitting decisions around our facilities.

Thank you for considering these amendments to Proposed SB 2235 SD2 HD1.

Respectfully Submitted,

Dan Youmans, AT&T



**Sandwich Isles
Communications, Inc.**

A Waimana Company

**ROBERT KIHUNE
CHIEF EXECUTIVE OFFICER
SANDWICH ISLES COMMUNICATIONS, INC.
TO
THE HOUSE OF REPRESENTATIVES
COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS ON
MARCH 15, 2012 - 9:45 A.M.

SB2235, PROPOSED HD1 RELATING TO COMMUNICATIONS
TECHNOLOGY**

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 SB2235, Proposed 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 45 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.