



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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KEALI`I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013
Date: Wednesday, February 20, 2013
Time: 3:00 p.m.

WRITTEN TESTIMONY ON
HB 635, HD1 - RELATING TO BROADBAND

By Keali`i Lopez, Director
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 H.B. No. 635, H.D.1, which is to expedite the approval process for State and county broadband-related permits in order to advance deployment of broadband infrastructure throughout the State. Greater access to broadband services statewide will not only enhance the quality of life of all of our residents, but will also help to strengthen our State's economic future. With respect to the substantive effects of this bill, however, the Department defers to the respective, impacted State and county permitting agencies.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

FEBRUARY 20, 2013
3:00 p.m.

MEASURE: H.B. No. 635, H.D. 1
TITLE: Relating to Broadband

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure will require the State and counties to take final action on all applications for “broadband-related permits” within sixty business days after submission, or else a submitted permit will be automatically approved on the sixty-first business day after submission. The term “broadband-related permits” is defined in the bill as including generally all permits required for the setting up, maintenance, and upgrading of broadband technology and all related infrastructure. This measure requires public utilities to use “reasonable best efforts” to comply with all applicable broadband safety and engineering requirements. H.B. No. 635, H.D. 1 would excuse the State, counties, and public utilities from prosecution arising from permit-related actions. In addition, this measure states that “[n]othing in [the amended sections] shall affect the provisions of section 3 of Act 151, Session Laws of Hawaii 2011.”

POSITION:

The following amendments are offered for the Committee’s consideration.

COMMENTS:

The Public Utilities Commission (“Commission”) appreciates the amendments made by the House Committee on Economic Development & Business relating to public utility liability and safety and engineering requirements. However, the Commission notes that language exempting the State, counties, and public utilities from prosecution related to

permitting actions may be overly broad and should be clarified by noting that the entities being exempted from prosecution should only be exempted for “actions taken in reviewing, approving, modifying, or disapproving a permit application” under the particular sections of Chapters 27 and 46, Hawaii Revised Statutes, in which these exemption are contained.

The Commission also request that the Committee review and reconsider the Commission’s expressed concerns over health and safety issues in the legislation that ultimately became Act 151, SLH 2011 (“Act 151”). The Commission testified prior to the passage of Act 151 that it should be allowed to maintain its authority over utility pole weight capacities, but the wording was deleted in the conference draft.

The Commission would also like to clarify this bill by appropriately amending:

- Page 3, lines 10 to 11, to read “. . . or the landing of an undersea communications cable.”
- Page 5, lines 19 to 20, to read “. . . or the landing of an undersea communications cable.”

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ESTHER KIAAINA
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

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
CONSUMER PROTECTION & COMMERCE

Tuesday, February 20, 2013
3:00 pm
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 635, HOUSE DRAFT 1
RELATING TO BROADBAND

House Bill 635, House Draft 1 proposes to require the approval of state and county permits for broadband related permits within sixty business days of submission of a complete permit application. If on the sixty-first business 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) opposes this measure, as it relates to the issuance of major Conservation District Use Permits, due to the following concerns.**

A Conservation District Use Application (CDUA) for broadband facilities (e.g., telecommunications tower), within the State Land Use Conservation District may require a public hearing, if the proposed facility is located in the Protective subzone. Under a typical scenario, a public hearing would be held by the Department after a CDUA is accepted for processing. It would not be possible to complete the processing of a CDUA for a broadband facility within sixty business days in the Conservation District due to the need for a public hearing prior to decision making by the Board of Land and Natural Resources. Furthermore, the Department is concerned that it will not be able to conduct adequate review of the potential environmental/cultural impacts resulting from major 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 permit streamlining procedures via its existing rules (Title 13-5, Hawaii Administrative Rules). However, for major broadband facilities that may impact sensitive ecological/cultural resources, the minimum processing period the Department could manage would be 120 days.

The Department reiterates that a more reasonable timeframe than sixty business days is required to complete an adequate review of major projects that are proposed in environmentally and culturally sensitive areas of the Conservation District, such as the protective subzone.



**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 & Tourism
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Wednesday, February 20, 2013
3:00 p.m.
State Capitol, Conference Room 325

in consideration of

HB635, HD 1
RELATING TO BROADBAND.

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) supports HB 635, HD 1, which amends Chapters 27 and 46, HRS, to require the State and the counties to approve; approve with modification; or disapprove all broadband related permits within sixty business days of submitting a permit application, provided that, if no action is taken by the sixty-first business day, the application will be deemed approved.

DBEDT supports the amendments in the HD 1, which appear to address some of the concerns raised by stakeholders. DBEDT believes increased broadband capacity is critical for businesses and the growth of Hawaii's economy. Delays in processing broadband permits result in increased costs for carriers that can translate into higher costs for consumers and slower download speeds.

DBEDT defers to other appropriate state agencies for further comments on this measure. DLNR has indicated that 120 days are required to process certain types of broadband permits. DBEDT has no objection to amending this bill to exempt Conservation District Use Applications for major broadband facilities proposed for the Protective Subzone of the Conservation District from the sixty day permit processing requirement.

Thank you for the opportunity to offer comments on this bill.

200 Akamainui Street
Mililani, Hawaii 96789-3999
Tel: 808-625-2100
Fax: 808-625-5888



The Honorable Angus McKelvey, Chair
The Honorable Derek Kawakami, Vice Chair
House Committee on Consumer Protection & Commerce

RE: HB 635 HD1 – Relating to Broadband – In Support
February 20, 2013 – 3:00 PM, Hawaii State Capitol, Room 325

Aloha Chair McKelvey, Vice Chair Kawakami and members of the committee,

Oceanic Time Warner Cable supports HB 635 HD1 which requires the State and the counties to take action on broadband-related permits within sixty business days after submission, or permits will be automatically approved on the sixty-first business day after submission.

As an active member of the Broadband Assistance and Advisory Council, we continue to support the state's expansion of broadband infrastructure that is in line with consumer and market demands.

Oceanic Time Warner Cable currently provides access to broadband service for the vast majority of the state. We are actively working to increase broadband speeds throughout the state.

We ask for your support in passing HB 635 HD1 with an amendment to change the effective date to "upon approval" or "July 1, 2013", as this bill streamlines the deployment of broadband infrastructure.

Sincerely,

Bob Barlow
President

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 19, 2013 10:47 AM
To: CPCtestimony
Cc: marcia.wright@heco.com
Subject: Submitted testimony for HB635 on Feb 20, 2013 15:00PM
Attachments: HB635 HD1 CPC Testimony 2-20-13.pdf

HB635

Submitted on: 2/19/2013

Testimony for CPC on Feb 20, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Nakagawa	Hawaiian Electric Company	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HB 635 HD1

RELATING TO BROADBAND

**KEN HIRAKI
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM
February 20, 2013**

Chair McKelvey and members of the Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 635 HD1.

We support the overall goal of HB 635 HD1 to accelerate broadband infrastructure deployment in the State. One of the recommendations from the State Broadband Task Force Report included supporting initiatives streamlining the current permit review process for the purpose of expediting broadband deployment. We believe HB 635 HD1 is a step in the right direction.

Based on the aforementioned, Hawaiian Telcom respectfully requests HB 635 HD1 be adopted.

Thank you for the opportunity to testify.

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 15, 2013 8:37 AM
To: CPCtestimony
Cc: 77e693c4@opayq.com
Subject: *Submitted testimony for HB635 on Feb 20, 2013 15:00PM*

HB635

Submitted on: 2/15/2013

Testimony for CPC on Feb 20, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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