

HCR 110 HD2

REQUESTING THE DIRECTOR OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO ESTABLISH A WORKING GROUP TO RECOMMEND LEGISLATION OR CHANGES TO ADMINISTRATIVE RULES TO DEVELOP CONTRACTUAL OBLIGATIONS BETWEEN THE STATE AND WIRELESS TELECOMMUNICATION SERVICE PROVIDERS AS TO THE USE OF PUBLIC LANDS FOR WIRELESS TELECOMMUNICATION INFRASTRUCTURE.



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development & Tourism
before the

**SENATE COMMITTEES ON ECONOMIC DEVELOPMENT, GOVERNMENT
OPERATIONS AND HOUSING
AND TECHNOLOGY AND THE ARTS**

Monday, April 14, 2014

3:15 P.M.

State Capitol, Conference Room 16
in consideration of

HCR 110, HD2

**REQUESTING THE DIRECTOR OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM TO ESTABLISH A WORKING GROUP TO RECOMMEND LEGISLATION
OR CHANGES TO ADMINISTRATIVE RULES TO DEVELOP CONTRACTUAL
OBLIGATIONS BETWEEN THE STATE AND WIRELESS TELECOMMUNICATION
SERVICE PROVIDERS AS TO THE USE OF PUBLIC LANDS FOR WIRELESS
TELECOMMUNICATION INFRASTRUCTURE.**

Chairs Dela Cruz and Wakai, Vice Chairs Slom and Nishihara, and Members of the Committees.

HCR 110, HD2 requests the DBEDT Director to establish a working group to develop standard provisions to be included in contractual agreements for the use of state public lands for wireless telecommunication hardware devices.

The working group is requested to conduct research and compile the current regulations and administrative rules on the issuance of leases, revocable permits, and any other legal contract that allows use of public lands for installation and operation of wireless telecommunication platforms to create proposed legislation or changes to administrative rules.

The Department of Business, Economic Development and Tourism (DBEDT) offers these comments. DBEDT does not have the capacity to carry out this project without additional staff and resources. DBEDT defers to the appropriate state agencies on issues of legal contracts and public land use.

Thank you for the opportunity to provide testimony.



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

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

**Before the Senate Committees on
ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
and
TECHNOLOGY AND THE ARTS**

**Monday, April 14, 2014
3:15 P.M.
State Capitol, Conference Room 16**

**In consideration of
HOUSE CONCURRENT RESOLUTION 110, HOUSE DRAFT 2
REQUESTING THE DIRECTOR OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM TO ESTABLISH A WORKING GROUP TO RECOMMEND LEGISLATION
OR CHANGES TO ADMINISTRATIVE RULES TO DEVELOP CONTRACTUAL
OBLIGATIONS BETWEEN THE STATE AND COMMUNICATION AND
TELECOMMUNICATION SERVICE PROVIDERS AS TO THE USE OF PUBLIC
LANDS FOR COMMUNICATION AND TELECOMMUNICATION
INFRASTRUCTURE**

House Concurrent Resolution 110, House Draft 2 requests the Department of Business, Economic Development and Tourism (DBEDT) to establish a working group to recommend legislation or changes to administrative rules to develop contractual obligations between the State and communication and telecommunication service providers as to the use of public lands for their infrastructure. **The Department of Land and Natural Resources (“Department”) defers to DBEDT on issues related to the convening of the working group, but provides the following comments on these resolutions.**

The vast majority of State facilities are located on public lands set aside to various State agencies pursuant to Governor’s executive orders. Section 171-11, Hawaii Revised Statutes (HRS), governs the management of lands set aside by executive order and specifically provides that the managing agency can issue “leases, easements, licenses, revocable permits, concessions,¹ or

¹ Chapter 171, HRS already governs the dispositions of leases, easements, licenses and revocable permits for DLNR and all other agencies holding lands by virtue of a Governor’s executive order, and Chapter 102 already governs concessions.

rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside," provided such dispositions are not longer than 14 days in duration. If they are longer than 14 days, or if the disposition is not consistent with the purpose of the set aside, then the managing agency needs to obtain the consent of the Board of Land and Natural Resources ("BLNR") prior to the disposition.

Accordingly, while the Department appreciates the desirability of establishing a more manageable framework for dispositions relating to communication and telecommunication infrastructure, the Department points out that any framework will need to address the requirement of prior review and approval by the BLNR pursuant to existing law, and be subject to the disposition requirements of Chapter 171, HRS. Additionally under current law, only the BLNR can approve a disposition that is inconsistent with the purpose of a set aside under an existing executive order, subject to Chapter 171, HRS.



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April 14, 2014

Honorable Senator Donovan Dela Cruz
Chair, Senate Committee on Economic Development, Government Operations
and Housing

Honorable Senator Glenn Wakai
Chair, Committee on Technology and the Arts

RE: Testimony in **Support** of HCR 110 HD2, Conf. Room 16, 3:15 pm, April 14

Dear Senators Dela Cruz and Wakai, and Committee Members:

AT&T supports House Concurrent Resolution 110 HD2, which would create a working group to recommend legislation or changes to administrative rules to facilitate state contracts with communication and telecommunication service providers regarding the use of public lands for communication and telecommunication infrastructure.

It has been our experience that such a discussion, which could result in legislation for next year, is very much needed. AT&T is greatly concerned about the amount of time it can take to site wireless broadband facilities on state lands. Yet, the public is demanding greater access to high-speed wireless data networks for the use of smart phones and other devices to access the Internet.

AT&T continues to make significant investments in our network in Hawaii. In fact, AT&T invested more than \$130 million in our network in Hawaii from 2011 through 2013. Last year, we made 122 network upgrades in Hawaii, including new cell sites and adding wireless and wired network capacity.

However, we have found that it can be very difficult and time-consuming to site our facilities on state lands, including at the state's airports. It would be our hope that this working group would address these issues and find ways to reduce the amount of time it takes for state agencies to process permits and provide approvals for the most modern communications technology serving the citizens of Hawaii.

AT&T urges your support for this legislation.

Respectfully Submitted,

Dan Youmans, AT&T