



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development & Tourism
before the

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Monday, March 31, 2014
2:00 P.M.

State Capitol, Conference Room 325

in consideration of

**HCR 110, HD1 and HR 81, HD1
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.**

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

HCR 110, HD1 and HR 81, HD1 requests the DBEDT Director to convene a working group to develop standard provisions to be included in contractual agreements for the use of state public lands for communication and telecommunication hardware devices.

The working group is to request 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 communication and telecommunication platforms to create proposed legislation or changes to administrative rules.

The Department of Business, Economic Development and Tourism (DBEDT) offers these comments on these resolutions. 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 testify on these resolutions.

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
CONSUMER PROTECTION & COMMERCE**

**Monday, March 31, 2014
2:00 P.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE CONCURRENT RESOLUTION 110, HOUSE DRAFT 1 /
HOUSE RESOLUTION 81, HOUSE DRAFT 1
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 1/House Resolution 81, House Draft 1 request 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 rights of entry covering such lands for such use as may be consistent with the purposes for which

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.

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

JESSE K. SOUKI
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

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.