

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 625  
H.D. 3  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Ways and Means, to which was referred H.B. No. 625, H.D. 3, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INFRASTRUCTURE,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a collocation permitting, application, review and approval process for telecommunications companies proposing to install broadband infrastructure on state- or county-owned structures, utility poles, light standards, or buildings; and
- (2) Establish the siting process for the installation of broadband infrastructure on state-owned or county-owned structures, utility poles, light standards, or buildings.

Your Committees received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Office of Planning; Chamber of Commerce Hawaii; Kaua'i Chamber of Commerce; Maui Chamber of Commerce; Hawai'i Lodging & Tourism Association; CTIA; AT&T; Mobilitie, LLC; T-Mobile USA, Inc.; and Verizon. Your Committees received testimony in



opposition to this measure from the Department of Education; City and County of Honolulu, Office of the Mayor; County of Hawai'i, Office of the Mayor; Hawaii Council of Mayors; Charter Communications, Inc.; and Airport Concessions Committee. Your Committees received comments on this measure from the Cable Television Division of the Department of Commerce and Consumer Affairs; Hawaiian Electric Company, Inc.; Hawaiian Telecom; and Boingo Wireless, Inc.

Your Committees find that broadband technology is now a critical part of infrastructure and the efficient deployment of broadband infrastructure and technology is vital to ensure the State remains competitive in a global economy. Advanced broadband infrastructure systems offer enhanced educational opportunities, telehealth capacity, safety and civil defense communications, economic competitiveness, consumer privileges, and tourism services. However, to provide all consumers with the benefits of advanced broadband technology, it is important to create a fair and predictable process for the deployment of small wireless facilities and small wireless facilities networks. Accordingly, this measure creates a process for the review and issuance of collocation permit applications for telecommunications companies seeking to install broadband infrastructure on certain state- or county-owned property for the siting of small wireless facilities and wireless facilities networks.

Your Committees further find that the Department of Commerce and Consumer Affairs indicated in testimony before your Committees that the Department has been working with stakeholders, including the Broadband Assistance Advisory Council, to identify, establish, and adopt mechanisms that can support and enhance operation of existing law and rules, as well as the coordination of government and private transportation, utilities, and telecommunications projects, such as the online utilities project notification system being developed by the City and County of Honolulu and an online statewide utility pole notification system that is currently under discussion by the joint pole owners in the State. These systems can improve communication, accountability, and documentation related to use of rights of way and utility pole attachments and increase efficiency and facilitate enforcement of timelines required by existing federal and state laws and pole attachment agreements.



With these considerations in mind, your Committees find that delaying the implementation of this measure by two years is appropriate. This will enable interested stakeholders to continue discussions on the collocation permit application, review, and application process established by this measure and ensure that this measure is consistent with federal law and provides for expedited, non-discriminatory deployment for all telecommunications providers. A delayed implementation date also provides an opportunity for this measure to be amended, if appropriate, during the Regular Session of 2018.

Your Committees have amended this measure by:

- (1) Clarifying that the broadband infrastructure permit process established includes wireless and wireline facilities and wireless and wireline facilities networks and making associated conforming amendments;
- (2) Clarifying that the permitting process is only for those wireless and wireline facilities and facilities networks that will be placed on utility poles and light standards, and removing all associated references to buildings and structures;
- (3) Clarifying that the permitting process applies to solely state-owned or county-owned utility poles and light standards, which excludes any utility poles or light standards that are owned jointly with another joint pole entity;
- (4) Clarifying that the permit application shall include a description of the equipment associated with the facilities in a project area, including the size, weight, and mounting height of the equipment to be installed;
- (5) Clarifying that the required permit application shall also include a description of compliance with a structural loading analysis contemplated in the National Electrical Safety Code;



- (6) Specifying that a written request that contains certain information regarding a potential collocation project shall be deemed an application;
- (7) Clarifying that once a provider has obtained necessary approvals, substantial construction must be commenced within twelve months, rather than twenty-four months, or attachment approvals may be rescinded;
- (8) Clarifying that a provider may submit a collocation request for a structure that is neither a solely state-owned nor solely county-owned utility pole or light standard to a state or county agency with jurisdiction over that structure, but specifying that acceptance, consideration, and granting of such a request shall be solely at the discretion of the state or county agency;
- (9) Exempting state-owned property within the jurisdiction of the Departments of Education, Transportation, and Public Safety, and emergency management siren towers or related telecommunications towers used for emergency first responders from the prohibition on denial of access to providers to collocate on state-owned property, thereby allowing the State to deny access to providers to collocate on those properties;
- (10) Clarifying that collocation requests shall obtain a special or conditional use permit prior to collocation of small wireless or wireline facilities or small wireless or wireline facilities networks on land within the conservation district;
- (11) Clarifying that the State and counties can accept a consolidated or batched application for a small wireless or wireline facilities network of no more than ten individual facilities;
- (12) Specifying that if the State or county charges a fee for collocation on solely state-owned or solely county-owned utility poles or light standards, the fee shall be \$100 per solely state-owned or solely county-owned utility pole or light standard and removing language that tied



permissible fees to the formula adopted by the Federal Communications Commission for pole attachments;

- (13) Clarifying that the reservation period for providers, the State, and the county shall be twenty-four months;
- (14) Specifying that permits may be revoked or rejected, in the State's or county's discretion, to protect contractual rights that have been or will be granted by the State or counties;
- (15) Clarifying that a wireless or wireline provider shall not be required to obtain a permit to maintain, repair, or replace small wireless or wireline facilities with facilities that are substantially the same as, or smaller or lighter than, the existing facilities or install, place, maintain, operate, or replace certain micro wireless or wireline facilities;
- (16) Clarifying that nothing shall be construed to provide access rights to poles or structures owned by a state-regulated public utility or relieve providers from existing requirements attached to state-regulated public utility-owned utility poles, rather than an investor-owned electric utility or telephone utility or private investor-owned utility poles;
- (17) Deleting the definition of "public property";
- (18) Retaining the effective date of May 22, 2050, but specifying that this measure shall apply to permit applications filed with the State or county after January 1, 2019;
- (19) Updating the purpose section; and
- (20) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 625, H.D. 3,



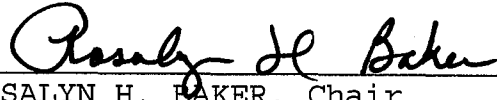
S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 625, H.D. 3, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on Commerce, Consumer Protection, and Health and Ways and Means,



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JILL N. TOKUDA, Chair



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ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:* <b>HB 625, HD3, SD1</b>	Committee Referral: <b>PSM/ETT <u>CPH</u>/WAM</b>	Date: <b>4/4/17</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended <span style="margin-left: 100px;"><input checked="" type="checkbox"/> Pass, with amendments</span> <span style="margin-left: 100px;"><input type="checkbox"/> Hold</span> <span style="margin-left: 100px;"><input type="checkbox"/> Recommit</span> <span style="margin-left: 20px;">2312</span> <span style="margin-left: 100px;">2311</span> <span style="margin-left: 100px;">2310</span> <span style="margin-left: 100px;">2313</span>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
KIDANI, Michelle N.				/
RUDERMAN, Russell E.	/			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <span style="margin-left: 150px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature: <div style="text-align:center;"><i>Clarence K. Nishihara</i></div>				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report      Clerk's Office      Drafting Agency      Committee File Copy				

\*Only one measure per Record of Votes

