

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 1201
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 S.B. No. 1201, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY,"

beg leave to report as follows:

The purpose and intent of this measure is to facilitate the deployment of high-speed broadband infrastructure in Hawaii, including wireless facilities, by:

- (1) Establishing limits on the State's and counties' authority to prohibit, regulate, or charge for the co-location of small wireless facilities or small wireless facilities networks;
- (2) Specifying certain sites where small wireless facilities or small wireless facilities networks may be located, including conditions and maximum fees for location and co-location; and
- (3) Establishing an application process and rates for co-location.

Your Committees received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; CTIA; Mobilitie; Sprint; and Verizon. Your Committees



received testimony in opposition to this measure from the Office of the Mayor of the County of Hawai'i. Your Committees received comments on this measure from the Department of Commerce and Consumer Affairs, Office of Planning, Office of the Mayor of the City and County of Honolulu, Hawaiian Electric Companies, Hawaiian Telecom, and Charter Communications.

Your Committees find that broadband technology is now a critical part of infrastructure and that it is important to facilitate the deployment of high-speed broadband technology for the future global connectivity and economic viability of the State. Broadband technology is essential across multi-sector industries and provides for enhanced educational opportunities, expansion of telehealth capacity, strengthening safety and civil defense communications, increasing economic competitiveness, addressing consumer privileges, and providing tourism services.

Your Committees further find that the demand for access to wireless products and services in Hawaii is increasing rapidly. The number of wireless subscribers in the State has grown nearly sixteen percent since 2010, amounting to over 1,400,000 subscribers and 99.5 percent of residents in the State having access to mobile broadband service. Your Committees find that these demands from the wireless industry's customers require that wireless networks be updated and prepared for the next generation of wireless networks. Your Committees additionally find that this measure will support economic development and innovation in the State related to the increased demand for broadband connectivity.

Your Committees find that Act 151, Session Laws of Hawaii 2011, provides an exemption for the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology from state and county permitting requirements, under certain circumstances. However, since Act 151 was enacted, broadband technology has advanced substantially, and wireless and wire line technology are now essential to the delivery of broadband service. Therefore, it is important to recognize the need for wireless and wire line technology and update state statutes accordingly. Finally, your Committees note that this measure is intended to continue the discussion about small wireless facilities and encourage a level playing field for competitive communications service providers.



Accordingly, your Committees have amended this measure by:

- (1) Inserting language to clarify that the limits on regulating the co-location of small wireless facilities or small wireless facilities networks shall not waive the State's or a county's right to require a license, franchise, or other agreement to access the right of way more broadly to install wireline broadband backhaul facilities, or to attach coaxial or fiber-optic cable between poles;
- (2) Establishing the rate for telecommunication pole attachments in 47 U.S.C. section 224(d) as the maximum annual recurring rate for co-location of a small wireless facility on state or county structures, utility poles, or light standards located within all public rights-of-way and property, rural or agricultural district lands, and urban district lands;
- (3) Inserting a provision that authorizes a wireless provider or wireless provider's licensed contractor to apply for or obtain a permit to install, place, maintain, operate, or replace micro wireless facilities that are suspended on messenger cables that are strung between existing utility poles in compliance with national safety codes;
- (4) Inserting language that prohibits the State and counties from adopting or enforcing any regulations on the placement or operation of wireless facilities in the right-of-way where the entity is already authorized by a franchise or other authorization to operate throughout the right-of-way, and prohibits the regulation of wireless communications services or the imposition or collection of fees on wireless communications services unless expressly required by state or federal statute;
- (5) Inserting definitions for the terms "co-location", "general applicability", "micro wireless facilities", "wireless communications service", "wireless facilities", and "wireline backhaul", and deleting the definition of "wireless service";



- (6) Inserting language to clarify that the term "small wireless facilities network" does not include wires or cables used for wireline backhaul or coaxial or fiber-optic cable between utility poles, or that are otherwise not immediately adjacent to and directly associated with a particular antenna;
- (7) Repealing sections of Act 151, Session Laws of Hawaii 2011, that have been codified within the Hawaii Revised Statutes;
- (8) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for the 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 S.B. No. 1201, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 1201, S.D. 2.

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



JILL N. TOKUDA, Chair



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

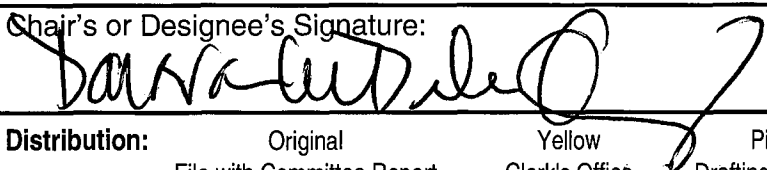
Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB1201, SDI	Committee Referral: ETT/PSM,CPH/IVAM	Date: 2/28/17		
<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 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
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.				/
TOTAL	6			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Clarence K Nishihara</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 201, SD1	ETT/PSM, CPH/WAM	2/28/17		
<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 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood	/			
HARIMOTO, Breene	/			
INOUYE, Lorraine R.				/
KAHELE, Kaiali'i		/		
RIVIERE, Gil	/			
SHIMABUKURO, Maile S.L.	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn				/
TOTAL	8	1		2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

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