

HB625 HD3 SD1

Measure Title: RELATING TO INFRASTRUCTURE.

Report Title: Broadband; Small Wireless Facilities; Siting Process; State- and County-owned Structures; Permits

Description: Establishes 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. Establishes the siting process. Takes effect on 5/22/2050. (SD1)

Companion:

Package: None

Current Referral: PSM/ETT, CPH/WAM

Introducer(s): YAMANE, AQUINO, CHOY, CULLEN, KONG, YAMASHITA



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
CABLE TELEVISION DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JI SOOK KIM
CABLE TELEVISION ADMINISTRATOR

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH
AND
THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Date: Thursday, March 30, 2017
Time: 9:30 a.m.

TESTIMONY ON H.B. NO. 625, H.D. 3, S.D. 1 – RELATING TO INFRASTRUCTURE.

TO THE HONORABLE ROSALYN H. BAKER, AND THE HONORABLE JILL N.
TOKUDA, CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Ji Sook “Lisa” Kim, and I am the Cable Television Administrator at the Department of Commerce and Consumer Affairs (the “Department”). The Department appreciates the opportunity to comment on H.B. No. 625, H.D. 3, S.D. 1, which establishes provisions relating to the siting of small wireless facilities and small wireless facilities networks.

The duties of the Department include supporting efforts and making recommendations to enhance and facilitate deployment of, and access to, competitively priced broadband services across the State. Thus, the Department strongly supports initiatives such as permit streamlining that may lead to faster deployment of both wireless and wireline facilities. The Department notes that state and federal laws currently exist to foster timely and nondiscriminatory access to rights of way for both wireline and wireless telecommunications providers. These include state and federal laws creating permitting “shot clocks;” federal law requiring nondiscriminatory access to poles, ducts, conduits, and rights of way; and federal law allowing for nondiscriminatory, fair and reasonable compensation for such access where publicly disclosed. The federal laws are intended to provide nondiscriminatory, streamlined access for all types of technology, without overriding permitting and other approval processes designed to

protect public health and safety and other public impacts, including interference with other government functions and visual impacts to our communities.

Rather than overriding existing approval processes designed to safeguard public health, safety, and welfare for one type of technology, the Department respectfully suggests that legislation that strengthens and provides enforcement of these existing rules and laws would be consistent with federal law and provide for expedited, non-discriminatory deployment for all telecommunications service providers. This may include provisions for “batch permitting” where appropriate; provisions for review on an expedited basis of state and county “shot-clock” laws, Hawaii Revised Statutes § 27-45 and § 46-89, respectively; or extensions of federal law to ensure application to all types of technology and enforcement. The Department has been working with stakeholders, including the Broadband Assistance Advisory Council (“BAAC”), to identify, establish, and/or adopt mechanisms that can support and enhance operation of existing laws and rules, as well as the coordination of government and private, transportation, utilities, and telecommunications projects. This includes the online utilities project notification system being developed by the City & County of Honolulu for management of projects in its rights-of-way, and an online statewide utility pole notification system, reviewed by the BAAC as a deployment best practice, 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, respectively, and thereby increase efficiency and facilitate enforcement of timelines required by existing federal and state laws and pole attachment agreements.

Should your Committees choose to pass this bill, the Department, recognizing that permit streamlining must be balanced against appropriate review, defers to those agencies responsible for permitting and other approvals on how the current bill may impact the ability of those agencies to review attachments to infrastructure for health and safety considerations, as well as to minimize visual impacts to our communities. The Department further defers to those agencies that serve as the state and county asset owners and managers for comment on the bill’s impact on their ability to manage, maintain, and preserve those assets and to perform government operations.

Thank you for the opportunity to testify on this bill.



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

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
LUIS P. SALAVERIA
Director
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

before the
**SENATE COMMITTEES ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH
AND WAYS AND MEANS**

Thursday, March 30, 2017
9:30 AM
State Capitol, Conference Room 211

in consideration of
HB 625, HD3, SD1
RELATING TO INFRASTRUCTURE.

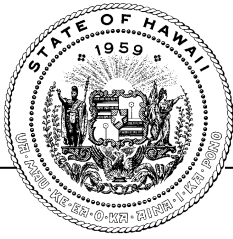
Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz and Members of the Committees.

The Department of Business, Economic Development and Tourism (DBEDT) **strongly supports** HB 625, HD3, SD1.

DBEDT supports the language in HB 625, HD3, SD1, which ensures that state and county agencies have the ability to evaluate the impacts of small wireless installations and issue permits that protect their investments in public safety, IT equipment and airport concessions, while expediting the deployment of small wireless equipment on state and county-owned poles, light standards, structures and buildings.

Expediting permits, not subject to conditional use or special use permit hearings, to install small wireless equipment on state and county poles and light standards by all carriers will help Hawaii residents keep up with the increased speed and capacity needed to remain economically competitive with the rest of the world.

Thank you for the opportunity to offer these comments in support of HB 625, HD3, SD1.



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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
**SENATE COMMITTEES ON COMMERCE, CONSUMER PROTECTION, AND
HEALTH & WAYS AND MEANS**
Thursday, March 30, 2017
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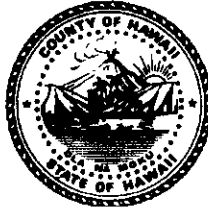
Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz, and Members of the Senate Committees on Commerce, Consumer Protection, and Health & Ways and Means.

The Office of Planning (OP) strongly supports HB 625, HD3, SD1. Broadband technology is now a critical part of infrastructure and it is important to support efficient broadband opportunities and to facilitate the deployment of such high-speed broadband technology for the future global connectivity and economic viability of the State. Broadband technology is essential across multi-sector industries and among many benefits, provides opportunities for: enhanced educational opportunities, expansion of telehealth capacity, strengthening safety and civil defense communications, increasing economic competitiveness, addressing consumer privileges, and providing tourism services.

OP finds that HB 625, HD3, SD1 addresses issues such as public safety, private ownership of structures, poles, and light standards, a process for wireless services, and establishes a siting process that enables potential implementation addressing the State goal under the Hawaii State Planning Act (HRS Chapter 226) to achieve: A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations (HRS Ch § 226-4).

Thank you for the opportunity to testify on this measure.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

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March 28, 2017

Senator Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection,
and Health
Hawai'i State Capitol
Honolulu, HI 96813

Senator Jill N. Tokuda, Chair
Committee on Ways and Means
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Baker, Chair Tokuda, and Committee members:

**RE: HB 625, HD 3, SD 1
Relating to Infrastructure (broadband; small wireless
facilities; siting process; State- and County-owned structures;
permits)**

Thank you for this opportunity to testify against HB 625, HD 3, SD 1.

Over the past weeks, we have raised objections to various aspects of numerous telecommunication bills. Early on, we suggested that the bills be kept alive for further discussion, but we now believe that the issues are simply too complex to expect them to be resolved this session. At this point, we would urge that no bill pass this session, and that the Legislature set up a mechanism (by Joint Resolution, study by the Auditor, or some other approach) for further discussion in the interim, with a consensus bill to be presented to next year's Legislature. The installation of telecommunication facilities on county-owned or State-owned property is complicated, far reaching in scope, and raises substantial questions related to fairness, public safety and costs. Our concerns are mirrored by the State and the other counties, and with numerous private sector voices compounding the number of perspectives that must be accommodated, we trust that the legislative process will yield a satisfactory result, but only if given substantially more time.

Our main objection to HB 625, SD1 remains the same—it still does not protect radio towers/first responder communications. It may give the counties some ability to regulate in the right of way, but those towers are still vulnerable (and probably prime targets for the telecommunications companies because they will get good coverage where we get good coverage).

Among numerous concerns we have is that, if this or any other bill were to pass in present form, the County could not adequately protect against the overburdening of its equipment, which could cause interference with the County's existing equipment or system.

In addition, coerced co-location could interfere with the County's existing and prospective contractual relations, as some County "structures" are on leased or licensed properties that do not allow collocation without a landowner's consent, and landowners may be hesitant to let the County have a structure on their properties if doing so will allow any and all small wireless facilities or small wireless facilities networks to be placed on their properties without their consent. Co-location raises security concerns, concerns about existing equipment being damaged by allowing private entities to do installation and other work on County sites, and concerns about increased use and wear-and-tear on existing structures, equipment, and access routes to rural sites. We do not believe any of the bills a) grant counties immunity for private entities accessing and using county property, b) allow the counties to recoup costs due to a small wireless facility or network's use of counties' utilities, or c) expressly allow counties to require companies that are accessing or using a county's property to assume liability for any damages to existing equipment or structures and to defend and indemnify a county for any such damages.

If the final bill does not define "structure," it could be read to allow wireless equipment to be placed on any County owned or operated building.

An earlier draft totally exempted wireless equipment from any County permits. It required the wireless companies to provide notice prior to installation to the DCCA but not to an affected county. It allowed utilities to reject applications but did not provide counties that authority and did not have any process for applications. It required wireless companies to comply with "applicable safety and engineering requirements", but that would be difficult for us to check with no prior notice or permitting process.

There is also considerable debate over costs and fees, which by no means are inconsequential to the providers, and therefore should be equally important to government as the protector of taxpayer assets. One draft limited collocation charges to \$20 annually—a giveaway that does not seem to reflect proper stewardship of the

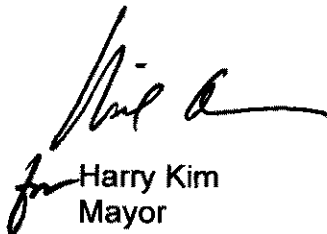
public trust. Staff did some brief research and did not see other states giving away public land so freely. Washington State, for instance, has a schedule of fees and regulations in place that looks like a better balance protecting public land. The fact that someone suggested \$20 makes it even more important that the Legislature demand due diligence before making any final, long-lasting decisions.

At an absolute minimum, we would ask that any bill that passes provide that an entity proposing the installation, construction, development, or improvement of broadband networks must file a written request to do so with the State and affected county, and allow the counties to reject an application if the proposed installation might interfere with or overburden existing equipment.

But for a subject this big with so many long-term ramifications, it would be better to assure that these bills not become law without a good deal of further discussion and amendment. A very real danger to public safety could inadvertently result if, for instance, civil defense operations or emergency and first responder networks were compromised by the anticipated new installations.

We have joined in a discussion led by the City and County, and appreciate the efforts being made by the parties to develop a bill that will be fair to all. We just cannot be optimistic that those discussions will yield an adequate product in time for the 2017 Legislature to act.

Respectfully submitted,



for Harry Kim
Mayor

**Testimony before the Senate Committees on
Commerce, Consumer Protection, and Health
and
Ways and Means**

**By Paul A. Nakagawa
Superintendent, T&D Infrastructure
Construction and Maintenance Department
Hawaiian Electric Company, Inc.**

**Thursday, March 30, 2017
9:30 a.m., Conference Room 211**

**House Bill 625 HD3 SD1
Relating to Infrastructure**

Chairs Baker & Tokuda, Vice Chairs Nishihara & Dela Cruz, and Members of the Committees:

My name is Paul Nakagawa, and I am testifying on behalf of the Hawaiian Electric Company, Inc. and its subsidiaries, Hawaii Electric Light Company, Inc. and Maui Electric Company, Limited (collectively, the “Hawaiian Electric Companies”) in support of the intent of HB 625 HD3 SD1.

While we support and encourage the deployment of high-speed broadband infrastructure in Hawaii, and, as an active participant, the efforts of the Legislature and the Broadband Assistance Advisory Council (BAAC) to streamline the permitting process applicable to the State’s broadband initiative, we have concerns with HB 625 HD3 SD1 as written, specifically in reference to “state-owned” or “county-owned” utility poles or light standards. We interpret such references of utility poles or light standards as either being solely owned by the “state” or “county”, or jointly owned with other joint pole entities. In our recent discussions with several different stakeholders on this measure, the consensus is that such utility poles and light standards owned jointly with the Hawaiian Electric Companies were not intended to be included in this measure (HB 625 HD3 SD1). Therefore, we propose that an all-encompassing amendment be made to clarify that any utility poles or light standards jointly owned with an investor-owned electric utility are not subject the provisions of this measure (HB 625 HD3 SD1). An example of such language would be the amendment proposed and included in SB 1201 SD2 HD1 on page 6, line 9: ***“provided such structures, utility poles, and light standards are not owned solely or jointly by an investor-owned electric utility.”***

In addition, to further clarify the issue of light standards, we propose that page 16, line 8 be amended to read: “***(b) Nothing in this section shall be construed to: (1) Provide state-based access rights to poles, light standards, or structures solely-owned by an investor-owned electric utility or telephone utility;***”. Similarly, we propose that page 26, line 1 be amended to read: “***(b) Nothing in this section shall be construed to: (1) Provide county-based access rights to poles, light standards, or structures solely-owned by an investor-owned electric utility or telephone utility;***”.

We appreciate the support of the Legislature in hearing and understanding our concerns as we continue to work together with the stakeholders to clarify the intent of this measure and ensure consistency in the reference of solely or jointly owned poles and light standards in related broadband measures.

Thank you for the opportunity to testify on this matter.



**Testimony to the Senate Committee on Commerce, Consumer Protection
and Health, and the Senate Committee on Ways and Means
Thursday, March 30, 2017 at 9:30 A.M.
Conference Room 211, State Capitol**

RE: HOUSE BILL 625 HD3 SD1 RELATING TO INFRASTRUCTURE

Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of HB 625 HD3 SD1, which establishes 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; establishes the siting process.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This legislation will not only establish a faster and more reliable small wireless or wireline facilities network, but will also fuel our workforce and put more money into the pockets of local consumers and businesses. Telecom operators are expected to invest approximately \$275 billion in infrastructure, which would create three million jobs and pump \$500 billion into the GDP. At a local level, 5G has proven its impact of stimulating our economy by creating nearly 3,500 jobs and is estimated to generate over \$216 million in Smart City benefits for Hawaii, such as reduced commute times and improved public safety. In fact, small wireless and wireline facilities jobs offer better wages for local workers, paying 46 percent more on average than other jobs in Hawaii.

This proposed legislation will give today's businessperson or entrepreneur the tools they need to succeed in our local economy while ensuring Hawaii businesses maintain their competitive edge in the long-term. To ensure that local consumers and businesses may benefit from 5G as soon as possible, we must have a framework in place to streamline the process quickly and efficiently. By deploying a more robust small wireless or wireline facilities network, Hawaii will be able to offer businesses and start-ups a promising future in a world that is interconnected and rapidly changing.

Thank you for the opportunity to testify.

HB 625 HD3 SD1

RELATING TO INFRASTRUCTURE

**KEN HIRAKI
VICE PRESIDENT – GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM**

March 30, 2017

Chairs Baker, Tokuda and members of the Committees:

Hawaiian Telcom would like to submit comments on HB 625 HD3 SD1 – Relating to Infrastructure, to promote the deployment of advanced broadband services throughout the state.

We believe that benefits afforded to small wireless facilities under HB 625 HD3 SD1 should apply equally to wireline broadband as well.

In order to maintain a level playing field in the statewide rollout of advanced broadband services, Hawaiian Telcom respectfully requests that HB 625 HD3 SD1 be amended to also include “wireline” services and facilities.

Measures designed to encourage and promote both wireline and wireless services will help speed up the build-out of Hawaii’s broadband network and provide consumers with the services that they need at the competitive prices that they deserve.

Based on the aforementioned, Hawaiian Telcom requests that the committee look favorably upon our suggested amendments.

Thank you for the opportunity to testify.



March 28, 2017

Honorable Rosalyn Baker
Chair, Senate Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol
Room 230
Honolulu, HI 96813

Honorable Jill N. Tokuda
Chair, Senate Committee on Ways and Means
Hawaii State Capitol
Room 207
Honolulu, HI 96813

Honorable Clarence K. Nishihara
Vice Chair, Senate Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol
Room 214
Honolulu, HI 96813

Honorable Donovan M. Dela Cruz
Vice Chair, Senate Committee on Ways and Means
Hawaii State Capitol
Room 202
Honolulu, HI 96813

RE: Support House Bill 625 HD3 SD1 – Small Wireless Facility Deployment

Dear Chairs Baker and Tokuda and Vice Chairs Nishihara and Dela Cruz:

On behalf of CTIA, the trade association for the wireless communications industry, I am writing in support of House Bill 625 HD3 SD1, related to the deployment of small wireless facilities. The people of Hawaii continue to demand – at skyrocketing levels – access to wireless products and services. This is demonstrated by the fact that, according to the Federal Communications Commission (FCC), there are more wireless connections than there are people in Hawaii, representing a wireless penetration rate of over 100%.¹ The number of wireless subscribers in Hawaii has grown nearly 16% since 2010 amounting to over 1.4 million subscribers and 99.5% of

¹ U.S. Census, Population Estimates, at <http://www.census.gov/data/tables/2016/demo/popest/state-total.html>, last accessed 3/28/2017.



Hawaiians have access to mobile broadband service.^{2,3} These demands from the wireless industry's customers – your constituents – require that wireless networks be updated today and readied for the next generation of wireless networks. House Bill 625 HD3 SD1 is a needed mechanism accommodate consumer demands and help to realize the future.

Small wireless facilities – also known as small cells – are being widely deployed to accommodate this increased demand. Small cells are wireless antennas, typically no more than six cubic feet in volume, and associated equipment generally less than twenty-eight cubic feet, that are being installed on existing structures like utility poles, street lights and traffic signal poles. This global trend is sweeping the country. More than 250,000 small cells are expected to be installed over the next few years in the United States, about the number of traditional “macro” cell sites built over the last 30 years.

Small cells enhance capacity on existing 4G LTE wireless networks by efficiently using scarce spectrum, and they will be required for the higher-frequency spectrum 5G networks will depend on. The benefits provided by 5G are astounding. 5G networks will provide increased capacity to accommodate growing consumer demands and will connect 100 times more devices. Imagine a future where nearly everything is connected to ubiquitous wireless networks at speeds up to 100 times faster than today. Imagine communities that are smarter and more connected. Entire sectors, from public safety to transportation, will be transformed.

In fact, Accenture recently published a study noting that 5G wireless networks could create as many as three million jobs and boost the U.S. GDP by nearly \$500 billion over the next seven years.⁴ More specifically, Hawaii communities – from small towns to big cities – that embrace the next-generation of wireless connectivity will realize significant economic benefits. For instance, 5G deployment in a community like North Kona may create over 300 jobs and increase GDP by \$50 million and a community like Honolulu may see the creation of nearly 3,500 jobs and increase GDP by \$570 million.⁵ That's the promise of the next-generation of wireless technology. America needs to lead in its deployment.

² FCC, Voice Telephone Services Report: Status as of June 2015, August 2016, at <https://www.fcc.gov/wireline-competition/voice-telephone-services-report>, last accessed 3/28/2017.

³ Broadband Now, Broadband Internet in Hawaii, at: <http://broadbandnow.com/hawaii>, last accessed 3/28/2017.

⁴ “How 5G Can Help Municipalities Become Vibrant Smart Cities,” Accenture Strategy, Jan 12, 2017. These estimates are based on expected benefits for the United States from next generation wireless networks and some smart city technologies. They are based on per capita application of the estimated national benefits to individual cities (e.g., the number of construction jobs are national averages assigned on a per-capita basis), and may vary depending on the individual city.

⁵ *Ibid.*



House Bill 625 HD3 SD1 helps to remove barriers to efficient deployment of small cell wireless infrastructure by streamlining processes and imposing reasonable rates and fees. Furthermore, the legislation places no limitations on localities' ability to deny permits based on building, safety or electrical codes or standards. There is no removal of localities' jurisdiction in these areas.

In closing, since 2010, wireless providers have invested more than \$177 billion to improve their coverage and capacity to better serve Americans, with \$32 billion invested in 2015 alone.⁶ As stated above, more than 250,000 small cells are expected to be installed over the next few years in the United States. The regulatory and land use environment must allow for capital to be efficiently spent as capital tends to flow to places that are ready for investment. House Bill 625 HD3 SD1 would send such a signal that Hawaii is ready for investment.

Thank you for the opportunity to submit testimony in support of House Bill 625 HD3 SD1 and we strongly urge its approval.

Sincerely,

Bethanne Cooley
Director, State Legislative Affairs
CTIA

⁶ CTIA's Wireless Industry Summary Report, Year-End 2015 Results, 2015, <http://www.ctia.org/industry-data/ctia-annual-wireless-industry-survey>, last accessed 3/28/2017.

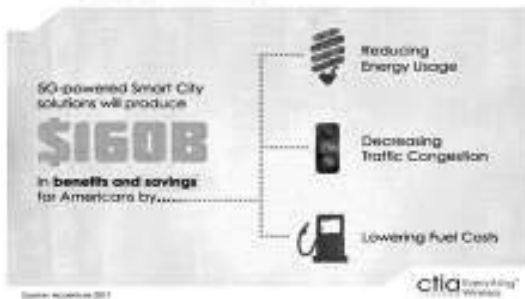


Example of a Small Cell





5G Benefits: Hawaii



Honolulu

- nearly 3,500 jobs created
- over \$216 million in Smart City benefits
- \$571 million in estimated GDP growth

Ewa

- over 2,600 jobs created
- over \$166 million in Smart City benefits
- \$426 million in estimated GDP growth

North Kona

- over 300 jobs created
- Nearly \$10 million in Smart City benefits
- \$50 million in estimated GDP growth

Source: <https://www.ctia.com/industry/5g-powered-smart-city-solutions-will-produce-160-billion-in-benefits-and-savings-for-americans-by-2025>



Bob Bass
President, Hawaii
External Affairs

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March 28, 2017

Honorable Rosalyn Baker
Chair, Senate Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol Room 230
Honolulu, HI 96813

Honorable Jill N. Tokuda
Chair, Senate Committee on Ways and Means
Hawaii State Capitol
Room 207
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Honorable Clarence K. Nishihara
Vice Chair, Senate Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol
Room 214
Honolulu, HI 96813

Honorable Donovan M. Dela Cruz
Vice Chair, Senate Committee on Ways and Means
Hawaii State Capitol
Room 202
Honolulu, HI 96813

RE: Support House Bill 625 HD3 SD1 – Small Wireless Facility Deployment

On behalf of AT&T, I would respectfully request that the committee support House Bill 625 HD3 SD1, related to the deployment of small wireless facilities -- a bill that will promote the installation of small cell wireless facilities to improve wireless networks in Hawaii.

Consumers and businesses are using their mobile devices more than ever to connect to everyone and everything around them. Since 2007, AT&T has experienced a 250,000% increase in data usage on our network. Additionally, as streaming video continues to become more prominent and new applications and services are introduced, this growth in data usage will continue to rise. Small cell wireless facilities will help bring customers faster download speeds, improved call quality and a better overall wireless experience.

With this increased demand and pressure on our mobile network, AT&T has developed innovative ways to enhance our network, prepare for 5G network deployment and provide the best possible experience for our customers by densifying our networks with small cells. Small cells are wireless antennas, no more than six cubic feet in volume, and with associated



equipment less than twenty-eight cubic feet that will be deployed on existing structures like utility poles, street lights and traffic signals.

The densification of our network through the deployment of small cells and preparing our networks for the deployment of 5G technology will bring significant benefits and investments to Hawaii. Wireless consumers will benefit from increased speeds and improved networks and Hawaii telephone and cable companies will receive financial benefits from wireless carriers purchasing or leasing additional fiber backhaul as we deploy our small cell networks. Wireless companies may use microwave to connect small cells or may buy backhaul from a local telephone or cable company. Support for House Bill 625 HD3 SD1 not only will benefit the deployment of small cell networks, and wireless consumers, but will also benefit Hawaii telephone and cable companies and fiber deployment in Hawaii.

House Bill 625 HD3 SD1 will allow wireless carriers access to the public rights-of-way at reasonable rates; expedite the process for small cell installation; and deploy critical small cell technology that will set the stage for 5G networks in Hawaii. This will lead to increased investment in Hawaii and the latest technology for Hawaii consumers. We strongly urge your support of House Bill 625 HD3 SD1.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Bass".

Bob Bass
President, Hawaii
External Affairs

Enclosure



**Testimony of Mobilitie, LLC
IN SUPPORT OF HB 625 HD3 SD1, Relating to Infrastructure
Before the Senate Commerce, Consumer Protection, and Health Committee and the Senate Ways
and Means Committee
Thursday, March 30, 2017 9:30 am
Conference Room 211, State Capitol
RE: House Bill 625 HD3 SD1**

Chair Baker, Vice Chair Nishihara, Members of the Commerce, Consumer Protection, and Health Committee and Chair Tokuda, Vice Chair Dela Cruz, Members of the Ways and Means Committee:

Mobilitie **supports** HB 625 HD3 SD1, which establishes a collocation permitting, application, review and approval process for telecommunications companies proposing to install wireless broadband infrastructure on State or County structures, utility poles, light standards, or buildings.

Mobilitie is a nationwide provider of wireless infrastructure solutions, currently deploying a hybrid transport network designed to provide high-speed, high-capacity bandwidth to facilitate the next generation of devices and data-driven services. HB 625 HD3 SD1 is much needed legislation which would allow Mobilitie to efficiently deploy small wireless facilities which will meet the needs of both Hawaii's consumers and businesses.

HB 625 HD3 SD1 facilitates the permitting process of small wireless facilities (also known as small cells) through batch submissions, providing a consistent process for approval or denial, while preserving appropriate local control, and setting fair and non-discriminatory rate structures based on cost, consistent with Federal government guidelines. This enables the industry to efficiently and rapidly deploy much needed high-speed broadband infrastructure for Hawaii. Small wireless facilities will help densify the current network statewide and sustain the data needs of today, while building in capacity for future technologies such as those that support 5G.

Mobilitie has been working nationally and locally with the wireless industry and other key stakeholders, such as the state, counties, and electric utilities to find mutually agreeable terms to facilitate the buildout of these facilities. Critical issues, such as those that safeguard public health, safety, and welfare, are of mutual concern to the wireless industry and localities. Furthermore, the technology helps enhance public safety by helping emergency responders more accurately locate 911 callers, as statistics show ~70% of calls placed to emergency dispatch are placed by wireless callers. The wireless spectrum issued by the FCC to each carrier insures there is no interference with the existing public safety applications.

Mobilitie is poised to invest in building out our network as soon as this legislation is effective, which will provide for dozens of local jobs, and millions of dollars invested in the local economy. Therefore, I urge the committee to support HB 625 HD3 SD1.

Thank you for the opportunity to testify.

**TO THE SENATE COMMITTEES ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH
and
WAYS AND MEANS**

**TESTIMONY REGARDING
HB 625 HD3 SD1 RELATING TO INFRASTRUCTURE**

**MARK BROWN
VICE PRESIDENT – STATE REGULATORY AFFAIRS
CHARTER COMMUNICATIONS, INC.**

**March 30, 2017
9:30 AM**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE COMMITTEES:

I appreciate the opportunity to submit testimony on behalf of Charter Communications, the overall corporate parent of Oceanic Time Warner Cable, regarding both our company and pending legislation concerning small cell deployment.

At the outset, I want to highlight Oceanic's commitment to robust broadband deployment in Hawaii. Oceanic is the single largest provider of high-speed broadband and video throughout the state. We currently have deployed over 2,900 Wi-Fi hotspots throughout the Islands, with a commitment to provide an additional 1,000 hotspots by 2020. Oceanic has also committed to raise our base or floor-level broadband speed to 60 MBs by May of this year. Additionally, Oceanic is also planning to introduce by May Spectrum Internet Assist, our low-cost broadband program for low-income families and seniors, which at 30MBs, will be the fastest program of its kind offered by any broadband provider, and we believe will have a tremendous positive impact on the communities we serve in Hawaii.

We are concerned that HB 625 HD3 SD1 would create an uneven playing field between cable and telecommunications providers in the state by crafting special rules for the placement of small wireless facilities in the public rights-of-way. Access to public rights-of-way should be equitable for all occupiers. HB 625 HD3 SD1 would do nothing to spur wireless broadband deployment, which is already advancing in the current regulatory environment. There is no evidence that this legislation is needed or that it will advance a legitimate public policy goal.

In order to access the public rights-of-way Charter, as a cable operator, is required to obtain a franchise, which involves a lengthy vetting process with DCCA. We are also subject to stringent safety and other obligations, including the requirement to pay franchise fees in Hawaii of 5% of gross revenue for occupancy and use. This equates to millions of dollars each year in payments. This legislation is intended largely to allow unfranchised entities to circumvent the right-of-way authorization process, bypassing the procedure applicable to cable providers.

Cable operators should not be treated discriminatorily simply because we use the public rights-of-way to offer video/cable service, and our customers should not have to pay for us to use the public rights-of-way when others do not. Direct Broadcast Satellite companies like Dish Network and DirecTV already enjoy an advantage because they are not subject to any state or local regulation applicable to cable operators.

The bill is also unfair with regard to payment for the use of the public rights-of-way. The expedited wireless process severely limits fees while cable operators pay millions of dollars in franchise fees each year (not to mention cable's provision of valuable public, educational and government programming and other obligations that flow from our cable authorization). We think reduced fees for wireless services would be appropriate but only if the Legislature were willing to consider a comprehensive reform of all fees and obligations required of cable and telecommunications providers for access to the public rights-of-way.

HB 625 HD3 SD1 makes significant changes to the current process for public right-of-way access and creates an uneven playing field. We ask the Committees to hold consideration of the bill until it and all interested stakeholders have had an opportunity to study and review the implications of this bill and provide stakeholders, like Charter, an opportunity to more fully detail issues and concerns.

We urge the Committees to follow the path of the House with its recent amendments, contained in SB 1201 SD2 HD2, that create a task force to review these important issues. As the House recognized, any effort to consider this issue should be the subject of much deeper consideration and broader study rather than moving quickly to pass unnecessary legislation that could result in unintended consequences.



T-Mobile USA, Inc.
12920 SE 38th Street, Bellevue, WA 98006

RE: Support of House Bill 625 HD3 SD1 – Small Wireless Facility Deployment

Dear Chairs Baker and Tokuda and Vice Chairs Nishihara and Dela Cruz:

On behalf of T-Mobile, I write to support House Bill 625 HD3 SD1, a bill that will put Hawaii in position to lead the states in 5G wireless deployment and small cell infrastructure.

The future of wireless for consumers and the enterprise is 5G and small cell networks. The demand for mobile internet will outstrip current network configurations. The next generation of applications—from connected cars to virtual reality—demands high network density and substantially lower latency. In order to meet this need, the wireless industry must begin planning and installing dense, small cell networks and prepare for 5G technology.

T-Mobile is intent on ensuring that the citizens of Hawaii are able to realize these advances, and in order for wireless providers to make the necessary investments, current land use mechanisms at the local government level must be modified. We've identified three principles the Legislature should focus on and House Bill 625 HD3 SD1 embodies all three of these principles:

1. Access to the Right-of-Way: Providers must have reasonable access to the public rights-of-way (ROW) so that we can responsibly deploy small cells near consumers in urban areas, which helps to meet customer demands for faster data speeds, lower latency, stronger in-building wireless signal and an overall improved customer experience.
2. Reasonable Costs and Fees: Today, access to the public right-of-way and municipal structures often come at exorbitant prices that deter investment in wireless infrastructure. Municipal pole attachment rates frequently exceed 100 times what the FCC has determined to be reasonable for similar poles. Application fees, attachment fees and ROW access fees must be based on a cities' direct management costs, without discriminating against any technology.
3. Streamlined Siting Processes: Cities should not treat small cells like tall, full-sized cell towers. They must adopt streamlined approval processes with expedited timelines and objective standards. Applications should be "deemed approved" if no action is taken within a specified time. Providers should also be allowed to consolidate small cell applications, to minimize administrative impacts and improve efficiency.

House Bill 625 HD3 SD1 accomplishes these objectives by removing barriers, creating efficiencies, streamlining processes and imposing reasonable rates and fees. The bill does all of this while retaining local control in the hands of local government.



T-Mobile USA, Inc.
12920 SE 38th Street, Bellevue, WA 98006

Thank you for hearing House Bill 625 HD3 SD1 and for considering our testimony. We strongly urge adoption of House Bill 625 HD3 SD1.

Sincerely,

Jim Blundell
Sr. State Legislative Affairs Manager
T-Mobile



Jesús G. Román
Assistant General Counsel
Pacific & North Central Market
15505 Sand Canyon Avenue
Irvine, CA 92618

March 29, 2017

Honorable Rosalyn H. Baker, Chair
Honorable Lawrence K. Nishihara, Vice Chair
Senate Committee on Commerce, Consumer
Protection, and Health
Hawaii State Capitol, Rooms 230 and 214
Honolulu, HI 96813

Honorable Jill N. Tokuda, Chair
Honorable Donovan M. Dela Cruz, Vice Chair
Senate Committee on Ways and Means
Hawaii State Capitol, Rooms 207 and 202
Honolulu, HI 96813

RE: HOUSE BILL 625, HD3, SD1 – Relating to Infrastructure-SUPPORT
Hearing date: March 30, 2017 at 9:30 am

Dear Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz and Committee Members:

HB 625 paves the way for Hawaii to lead the country in providing its citizens greater broadband connectivity, infrastructure investment, and the next generation of broadband. Even more fundamentally it ensures that the platform exists upon which all of the game-changing innovations and technologies that will enhance our lives in the future – whether it's in the realms of public safety or sustainability or smart cities – will be built.

HB 625, as amended in SD1, and as in Verizon's attached proposal after discussion with stakeholders, provides for government oversight over the permitting process while ensuring the creation of a legal framework that will attract investment, new jobs, increased GDP and expedite the deployment of direly needed 4G LTE small cells and the newest wireless technology 5G.

GOVERNMENT AUTHORITY AND OVERSIGHT CREATED IN HB 625

In terms of oversight, the bill creates the following structure:

- Requires wireless providers to submit an application with detailed information, including a structural loading analysis.
- Authorizes the state or county to deny the application under specified conditions, including most importantly, if a proposed installation fails to protect public health and safety and safe travel. The wireless installation must not interfere with public safety communications. And provides that the wireless provider will work to solve issues related to interference with public safety communications if the wireless facility develops interference after installation.
- Authorizes the state or county to adopt objective aesthetic standards.

- Requires wireless providers to replace unsuitable poles with stronger poles if they do not meet safe loading requirements, while reserving loading capacity for the state or county's future use.

STREAMLINED DEPLOYMENT INCENTIVES CREATED BY HB 625

In terms of expediting the deployment of these small facilities, the bill provides for access to government owned utility poles and light standards, makes small wireless facilities a permitted use subject to non-discretionary permitting approval processes. Importantly, in view of concerns that the bill would provide unfettered access to sensitive or prized government buildings, the attached proposal would amend the bill to no longer mandate unconditioned access. Instead, the proposal provides for a nondiscrimination principle that government will provide access to buildings and other non-pole structures to the same extent it provides such access to other commercial interests for comparable uses and subjects such access to the wireless provider entering an agreement with the state or county.

INVESTMENT OUTLOOK CREATED BY HB 625

In terms of attracting investment, the streamlined processes noted above are coupled with cost-based attachment rates. The streamlined process along with the cost based rates creates the right incentives to attract significant investment. Indeed, Accenture recently published a study noting that 5G wireless networks could create as many as three million jobs and boost the U.S. GDP by nearly \$500 billion over the next seven years.¹ More specifically, if Hawaii embraces 5G technology, over the next 7 years Accenture estimates that 5G technology would mean \$1.4 billion in total network investment, \$2.1 billion in created GDP growth, an estimated 17,071 in job creation and \$772 million in Smart City Benefits. These benefits flow to all counties. Accenture estimates that the economic activity generated by 5G will result in:

Maui County:

- \$303 million in total investment
- \$576 million in GDP growth
- 5,309 jobs created
- \$117 million in smart city benefits

Kauai:

- \$120 million in total investment
- \$138 million in GDP growth
- 847 jobs created
- \$45 million in smart city benefits

Hawaii Island:

- \$228 million in total investment
- \$418 million in GDP growth
- 2,563 jobs created
- \$165 million in Smart City benefits

Honolulu County:

¹ "How 5G Can Help Municipalities Become Vibrant Smart Cities," Accenture Strategy, Jan 12, 2017. These estimates are based on expected benefits for the United States from next generation wireless networks and some smart city technologies. They are based on per capita application of the estimated national benefits to individual cities (e.g., the number of construction jobs are national averages assigned on a per-capita basis), and may vary depending on the individual city.

- \$734 Million in total network investment
- \$1 Billion in created GDP growth
- 8,352 in job creation
- \$445 million in Smart City Benefits

That promise of the next-generation of wireless technology will only be realized within the next 7 years if Hawaii modernizes its legal framework, which is now meant for a macro tower environment and is currently so slow and uncertain that no wireless provider has been able to initiate significant progress in the deployment of small wireless facilities networks.

THE PROBLEM HB 625 ADDRESSES

HB 625 is a critical and timely piece of legislation. It will modernize Hawaii's legal and policy framework to facilitate the expeditious deployment of small cells. This is necessary not only to attract investment, as noted above, but to meet the exponential growth and demand for data by Hawaiians use today. Traffic across wireless networks has exploded and keeping ahead of this demand with current infrastructure is becoming increasingly challenging. Small cells technology is the essential form of wireless infrastructure needed to deliver improved 4G LTE service. Deploying small wireless facilities to fill in capacity needs that existing macro towers cannot meet is akin to adding traffic lanes to a challenged highway. But the policy decision becomes even more critical if the people of Hawaii are to benefit from the next generation of wireless technology, 5G. Simply stated, 5G will revolutionize the wireless experience, delivering ultrafast speeds, super low latency and enormously more bandwidth. Although existing processes for macro tower facilities is inadequate, requiring long timelines that delay the deployment an average of 2 years, towers at least have the potential to cover an approximately 10-mile radius. But few welcome these large structures in their neighborhoods. And such timelines should not be tolerable from a 5G or small wireless facility perspective because this new technology propagates only very short distances, so more sites are needed, requiring more permits. If each permit takes the approximately 2 years, the full benefits of 5G technology may be delayed for many years. Now is the time to act.

THE 5G BENEFITS OF HB 625

5G technology—spawned by the release of new “millimeter wave” spectrum—will be truly a game changer. 5G will be 100x faster than the current technology and the spectrum has 1/10 the latency of 4G, making response time from a command nearly imperceptible to humans. Together, ultra-fast speed and super low latency will power telemedicine, remote surgery, remote equipment operation, public safety communications, and enhance safety on the roads by allowing much better pre-crash sensing, enabling vehicles to sense imminent collisions and mitigate or even avoid adverse impacts of a collision. 5G technology will enable simultaneous connections from billions of independent devices and embedded sensors, from cellphones to home appliances to clothing, creating the internet of things (IoT) and enabling “smart city” solutions (such as intelligent lighting, intelligent traffic and smart meters).

HB 625 seeks to deliver a state policy framework that strikes the right balance in encouraging ongoing investment in wireless broadband technology that consumers, business and government increasingly demand, while maintaining the state's and local governments' oversight of the public rights-of-way.

Although in strong support of HB 625, Verizon recommends that HB 625 SD1 be amended as proposed in the attached redline of SD1.

Mahalo for your consideration.

A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the efficient deployment of broadband infrastructure and technology is important for Hawaii's future global connectivity and economic viability. Among the benefits afforded by an advanced broadband infrastructure system are increased and enhanced educational opportunities, telehealth capacity, safety and civil defense communications, economic competitiveness, consumer privileges, and tourism services.

To ensure that consumers throughout the State may benefit from these services as soon as possible, and to provide a fair and predictable process for the deployment of small wireless facilities, the legislature finds that it is important to regulate the processes for the deployment of small wireless facilities and small wireless facilities networks in a manner that preserves and protects public safety and fairness among

competing uses of public space by the state and county governments and private companies.

The purpose of this Act is to facilitate the deployment of high-speed broadband infrastructure, including small wireless facilities and small wireless facilities networks. A collocation permit application, review, and application process is established by the Act for telecommunications companies proposing to install broadband infrastructure on utility poles, ~~buildings~~, structures, or light standards owned by the State or county.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to title 15 to be appropriately designated and to read as follows:

"CHAPTER

SMALL WIRELESS FACILITIES AND

SMALL WIRELESS FACILITIES NETWORKS

§ -1 Applicability. This chapter relates to broadband equipment, micro wireless facilities, and the collocation of small wireless facilities and small wireless facilities networks, as defined in section 27-41.1 and is applicable to state and county agencies.

§ -2 Definitions. For the purposes of this chapter, "collocation", "general applicability", "light standard", "micro wireless facilities", "small wireless facilities", "small

wireless facilities network", "utility pole", "wireless facility", "wireless provider", and "wireline backhaul" shall have the same meanings as in section 27-41.1.

"Telecommunications service" or "telecommunications" shall have the same meaning as in section 269-1.

§ -3 Collocation permits; application; review;

approval. (a) If a county or state agency requires an application, a ~~wireless~~ provider proposing to install broadband infrastructure, small wireless facilities, or small wireless facilities networks on a state-owned or county-owned utility pole, light standard, ~~building,~~ or structure shall submit such an application for a permitted use permit to a state or county agency with jurisdiction over utility poles, light standards, ~~buildings,~~ or structures. The application shall include:

- (1) A geographic description of the project area;
- (2) A listing and description of the utility pole, light standard, ~~building,~~ or structure included in the project for the installation, mounting, operation, and placement of broadband infrastructure, including an assessment of the identifying information, location, and ownership of the listed utility pole, light standard, ~~building,~~ or structure and information about any ground disturbance; ~~and~~

(3) A description of the equipment associated with the facilities to be installed in the project area, including radio transceivers, antennas, coaxial or fiber-optic cables, power supplies, and related equipment, and the size and weight of the equipment to be installed on each utility pole, light standard, ~~building, or structure~~ and;

(4) A description of compliance with a structural loading analysis contemplated in the national electrical safety code, for which the wireless provider shall presume that 15% of the load capacity of the pole is already in use.

A written request that contains the information in sections -3(a)(1)-(4) shall be deemed to be an application under this section.

(b) The appropriate state or county agency shall evaluate the impact of collocating the broadband infrastructure, small wireless facilities, or small wireless facilities networks described in the application to ensure that:

(1) The equipment installation on the utility pole, light standard, ~~building, or structure~~ is done in a manner to protect public health, public safety, and safe travel in the public rights-of-way and does not result in any violation of applicable federal requirements;

(2) The utility pole or light standard is able to bear the additional weight of the equipment and the equipment is not a hazard or obstruction to the public's use of the right-of-way; and

(3) Consistent with Federal Communications Commission regulations, the project equipment, broadband infrastructure, small wireless facilities, or small wireless facilities networks do not interfere with the operability of public safety communications or traffic signals.

(c) A state or county agency may adopt rules that concern objective design standards for decorative poles or reasonable, feasible, and objective aesthetic requirements; provided that the standards and requirements do not prevent the collocation of small wireless facilities.

(d) No provider may exclude other providers from utilizing state- or county-owned utility poles, light standards, ~~buildings~~ or structures.

(e) ~~Providers shall avoid obtaining approvals to attach to utility poles, light standards, buildings, or structures they cannot or will not use within twenty-four months.~~ Once a provider has obtained necessary approvals, if construction is not substantially commenced within one year~~twenty-four months~~,

attachment approvals may be rescinded. Nothing in this section restricts a provider from re-applying for approvals.

- (f) The applicable state or county agency shall:
 - (1) Accept applications for, process and issue permits to collocate small wireless facilities;
 - (2) Within thirty days after receiving an application, determine and notify the applicant whether the application is complete. If an applicant is not notified within the thirty day period, the application is deemed complete. If an application is incomplete, the authority must specifically identify all the information missing from the application. The thirty day period shall be tolled while the applicant provides the missing information identified.
 - (3) Process each application on a nondiscriminatory basis.
 - (4) Approve an application unless the application does not meet the applicable codes or local code provisions that concern public safety or reasonable design requirements. If the agency determines that applicable safety codes or safety regulations require that the utility pole, light standard or structure be replaced before the requested collocation, approval may be conditioned on such replacement.

(g) Pursuant to section 27-45(a) for a state agency and section 46-89(a) for a county agency, the appropriate agency shall notify the applicant that:

- (1) The permit is approved;
- (2) The permit is approved with specified modifications;
- (3) The application is returned with a list of specific questions seeking answers, clarification, or additional detailed information and resubmission of the application with answers to the questions is required; or
- (4) The application is denied and the basis for the denial.

(eh) The State or county may require by rule or within a building or other safety code that if, after proper engineering analysis and supporting field tests, it is determined that project equipment and broadband infrastructure are connected to the cause of inoperability of public safety communications or traffic signals, the provider shall work with the State or county to determine a solution to the cause of the inoperability; provided that the solution is consistent with Federal Communications Commission rules."

SECTION 3. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part VII to be appropriately designated and to read as follows:

"§27- Siting of small wireless facilities and small wireless facilities networks. (a) The State's treatment of and permitting process for the collocation of small wireless facilities or small wireless facilities networks on state-owned utility poles, state-owned light standards, ~~state-owned buildings,~~ and state-owned structures for the deployment of high speed wireless or wireless broadband infrastructure shall be subject to the following provisions:

(1) Small wireless facilities and small wireless facilities networks shall be a permitted use not subject to zoning review or the standards of a special or conditional use permit in:

(A) All public rights-of-way and property, except state-owned airport property;

(B) All land designated as within the rural or agricultural district in accordance with chapter 205; provided that permissible uses within the agricultural district conform to the definition of "wireless communication antenna" in accordance with section 205-4.5(a)(18); and

(C) All land designated as within the urban district;

(2) Small wireless facilities and small wireless facilities networks may be processed for a special or conditional use permit when the small wireless

facilities and small wireless facilities networks are located on land designated as within the conservation district, in accordance with chapter 205;

(3) Except as provided in subsection -3(g)(4), Hawaii Revised Statutes, the state shall authorize the Collocation of Small Wireless Facilities on buildings and non-pole structures owned or controlled by the state that are not located within the right of way to the same extent the state permits access to such buildings and non-pole structures for other comparable commercial projects or uses. Such Collocations shall be subject to reasonable and nondiscriminatory rates and terms as provided in an agreement between the state and the Wireless Provider.

(34) ~~The State shall not deny access to wireless providers to collocate small wireless facilities on state-owned utility poles, light standards, buildings, and structures, except state-owned airport property; provided that this section shall not be construed to obviate or otherwise waive the right of the State 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. The State~~

may require building permits or other non-
discretionary permits and approvals for the
collocation of small wireless facilities and small
wireless facilities networks; provided that the
permits and approvals are of general applicability.
The State shall receive applications for, and process
and issue the permits and approvals in accordance with
applicable laws, including section 27-45, and subject
to the following requirements:

- (A) An applicant shall not be required to perform any
services, including restoration work not directly
related to the collocation, to obtain approval of
an application;
- (B) An application may be denied if it does not meet
applicable laws or rules regarding health and
public safety, construction in the public rights-
of-way, and building or electrical codes or
standards; provided that the codes and standards
are of general applicability. The State shall
document the basis for any denial, including the
specific code provisions or standards on which
the denial was based;
- (C) An applicant for a small wireless facilities
network of individual facilities that are of

substantially similar design being collocated on the same or materially the same type of utility pole, light standard, ~~building,~~ or structure shall be permitted, upon request by the applicant, to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of a small wireless facilities network instead of filing separate applications for each individual small wireless facility. The State shall accept either one of the following types of consolidated applications, at the discretion of the applicant:

(i) For multiple small wireless facilities in a three-square-mile geographic area; or

(ii) Based upon a project; and

(D) Applications for permits for the collocation of small wireless facilities and small wireless facilities networks shall be deemed applications for broadband-related permits, as defined in section 27-45(i);

(4) The collocation of small wireless facilities and small wireless facilities networks on state-owned utility poles, state-owned light standards, ~~state-owned buildings,~~ and state-owned structures under subsection

27- (3) located within the land identified in paragraph (1)(A), (B), and (C), may shall be subject to reasonable terms, conditions, and cost-based annual recurring rates; provided that the state may avoid a cost analysis by electing to impose an annual rate that does not exceed fifty dollars per utility pole, light standard or structure. Any annual recurring rate to collocate a small wireless facility or small wireless facility network on a state-owned utility pole, state owned light standard, state owned building, or state-owned structure shall not exceed the rate produced by applying the formula adopted by the Federal Communications Commission for telecommunications pole attachments in title 47 Code of Federal Regulations section 1.1409(e)(2); provided that when using the formula in title 47 Code of Federal Regulations section 1.1409(e)(2), the State may use, as the net cost of a bare pole, either \$100 or the actual net cost of the bare pole; provided further that if the Federal Communications Commission adopts a rate formula for small wireless facilities or small wireless facilities network attachments, that rate formula shall apply;

(5) If the state-owned utility pole, light standard, building, or structure is unable to support any of the additional equipment sought to be installed, and the wireless provider would like to collocate small wireless facilities or small wireless facilities networks on the state-owned utility pole, light standard, building, or structure, the wireless provider, at its sole cost, may install an upgraded utility pole, light standard, building, or structure subject to approval by the state agency, which will not be unreasonably withheld; provided that the wireless provider shall be responsible for the maintenance and repairs to its facilities on the utility pole, light standard, building, or structure and for the costs of any damage caused to the utility pole, light standard, building, or structure by the wireless provider or its facilities until all of the equipment is removed and all damage is repaired; provided further that the State shall continue to own the upgraded utility pole, light standard, building, or structure;

~~(6) The State may reserve space for up to twelve months on its light standards and utility poles where:~~

~~(A) Prior to a request for access having been made, it had a bona fide development plan in place and that the specific reservation of attachment capacity is reasonably and specifically needed for its planned use within one year of the request;~~

~~(B) There is no available technological means of increasing the capacity of the light standard or utility pole for additional attachments; and~~

~~(C) It has attempted to negotiate a cooperative solution to the capacity problem in good faith with the party seeking the attachment;~~

(76) Except as necessary to protect the public safety, the State shall not require a permit holder to:

(A) Maintain, repair, or replace the provider's small wireless facilities with facilities that are substantially the same, or smaller, in size, weight, volume, and height as the existing facilities; or

(B) 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; provided that nothing in this paragraph

prohibits a requirement for a traffic mitigation plan;

provided that micro wireless facilities installed in between utility poles and, small wireless facilities, and small wireless facilities networks installed on any state-owned utility pole, light standard, ~~building,~~ or structure shall be decommissioned if no longer in use, and providers shall remove from state-owned utility poles, light standards, ~~buildings,~~ and structures such micro wireless facilities, small wireless facilities, and small wireless facilities networks that are no longer used to provide service. The owner of the micro wireless facilities, small wireless facilities, or small wireless facilities network shall bear the costs of the removal.

In rendering a decision on an application for multiple small wireless facilities, the State may approve the application as to certain individual small wireless facilities while denying it as to others. The State's denial of any individual small wireless facility or subset of small wireless facilities within an application is not a basis to deny the application as a whole.

(b) Nothing in this section shall be construed to:

- (1) Provide state-based access rights to utility poles, light standards or structures solely-owned by an investor-owned electric utility or telephone utility;
- (2) Impair access rights provided under title 47 United States Code section 224 or its implementing regulations;
- (3) Relieve wireless infrastructure providers from existing facility attachment requirements attached to private investor-owned utility poles, including but not limited to compliance with the applicable provisions of Hawaii Administrative Rules chapter 6-73; or
- (4) Limit the right of the State to require an indemnification agreement as a condition of a provider's facilities attaching to a state-owned utility pole, light standard, ~~building,~~ or structure."

SECTION 4. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

"§46- Siting of small wireless facilities and small wireless facilities networks. The county's treatment of and permitting process for the collocation of small wireless facilities or small wireless facilities networks on county-owned utility poles, county-owned light standards, ~~county-owned~~

buildings, and county-owned structures for the deployment of high speed broadband infrastructure shall be subject to the following provisions:

- (1) Small wireless facilities and small wireless facilities networks shall be a permitted use not subject to zoning review or to the standards of a special or conditional use permit in:

 - (A) All public rights-of-way and property;
 - (B) All land designated as within the rural or agriculture district in accordance with chapter 205; provided that for the purposes of this subparagraph, permissible uses within the agricultural district conforms to the definition of "wireless communication antenna" in accordance with section 205-4.5(a)(18); and
 - (C) All land designated as within the urban district;
- (2) Small wireless facilities and small wireless facilities networks may be processed for a special or conditional use permit when the small wireless facilities and small wireless facilities networks are located on land designated as within the conservation district, in accordance with chapter 205;
- (3) The county shall not deny access to wireless providers to collocate small wireless facilities on county-owned

utility poles, light standards, buildings and structures; provided that this section shall not be construed to obviate or otherwise waive the right of the county 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. Except as provided in subsection -3(g)(4), Hawaii Revised Statutes, the county shall authorize the collocation of small wireless facilities on buildings and structures owned or controlled by the county that are not located within the right of way to the same extent the county permits access to such buildings and structures for other comparable commercial projects or uses. Such collocations shall be subject to reasonable and nondiscriminatory rates and terms as provided in an agreement between the county and the wireless provider. The county may require building permits or other non-discretionary permits for the collocation of small wireless facilities and small wireless facilities networks; provided that the permits and approvals are of general applicability. The county shall receive applications for, and process and issue the permits and approvals

in accordance with applicable laws, including section 46-89, and subject to the following requirements:

- (A) An applicant shall not be required to perform any services, including restoration work not directly related to the collocation, to obtain approval of applications;
- (B) An application may be denied if it does not meet applicable laws or rules regarding health and public safety, construction in the public rights-of-way, and building or electrical codes or standards; provided that the codes and standards are of general applicability. The county shall document the basis for any denial, including the specific code provisions or standards on which the denial was based;
- (C) An applicant for a small wireless facilities network of individual facilities that are of substantially similar design being collocated on the same or materially the same type of utility pole, light standard, ~~building,~~ or structure shall be permitted, upon request by the applicant, to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of a small

wireless facilities network instead of filing separate applications for each individual small wireless facility. The county shall accept either one of the following types of consolidated applications, at the discretion of the applicant:

(i) For multiple small wireless facilities in a three-square-mile geographic area; or

(ii) Based upon a project; and

(D) Applications for permits for the collocation of small wireless facilities and small wireless facilities networks shall be deemed applications for broadband-related permits, as defined in section 46-89(h);

(4) The collocation of small wireless facilities and small wireless facilities networks on county-owned utility poles, county-owned light standards, ~~county-owned buildings,~~ and county-owned structures under paragraph 46- (3) located within the land identified in paragraph (1)(A), (B), and (C), may be subject to reasonable terms, conditions, and cost-based annual recurring rates; provided that the county may avoid a cost analysis by electing to impose an annual rate that does not exceed fifty dollars per utility pole, light standard or structure. ~~Any annual recurring~~

~~rate to collocate a small wireless facility or small wireless facility network on a county owned utility pole, county-owned light standard, county-owned building, or county owned structure shall not exceed the rate produced by applying the formula adopted by the Federal Communications Commission for telecommunications pole attachments in title 47 Code of Federal Regulations section 1.1409(e)(2); provided that when using the formula in title 47 Code of Federal Regulations section 1.1409(e)(2), the county may use, as the net cost of a bare pole, either \$100 or the actual net cost of the bare pole; provided further that if the Federal Communications Commission adopts a rate formula for small wireless facilities or small wireless facilities network attachments, that rate formula shall apply;~~

- (5) ~~If the county-owned utility pole, light standard, building, or structure is unable to support any of the additional equipment sought to be installed, and the wireless provider would like to collocate small wireless facilities or small wireless facilities networks on the county-owned utility pole, light standard, building, or structure, the wireless provider, at its sole cost, may install an upgraded~~

utility pole, light standard, building, or structure
subject to approval by the appropriate county agency
which will not be unreasonably withheld; provided that
the wireless provider shall be responsible for the
maintenance and repairs to its facilities on the
utility pole, light standard, building, or structure
and for any damage caused to the utility pole, light
standard, building, or structure by the wireless
provider or its facilities until all of the equipment
is removed and all damage is repaired; provided
further that the county shall continue to own the
upgraded utility pole, light standard, building, or
structure;

~~(6) The county may reserve space for up to twelve months~~
~~on its light standards and utility poles where:~~

~~(A) Prior to a request for access having been made, it~~
~~had a bona fide development plan in place and that the~~
~~specific reservation of attachment capacity is~~
~~reasonably and specifically needed for its planned use~~
~~within one year of the request;~~

~~(B) There is no available technological means of~~
~~increasing the capacity of the light standard or~~
~~utility pole for additional attachments; and~~

~~(C) It has attempted to negotiate a cooperative solution to the capacity problem in good faith with the party seeking the attachment;~~

(76) Except as necessary to protect public safety, the county shall not require a permit holder to:

(A) Maintain, repair, or replace the provider's small wireless facilities and small wireless facilities networks with facilities that are substantially the same, or smaller, in size, weight, volume, and height as the existing facilities; or

(B) 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; provided that nothing in this paragraph prohibits a requirement for a traffic mitigation plan;

provided that micro wireless facilities installed in between utility polels, and, small wireless facilities, and small wireless facilities networks installed on any county-owned utility pole, light standard, building, or structure shall be decommissioned if no longer in use. Providers shall remove from county-owned utility poles, light

standards, buildings, or structures such micro wireless facilities, small wireless facilities, and small wireless facilities networks that are no longer used to provide service. The owner of the micro wireless facilities, small wireless facilities, or small wireless facilities network shall bear the costs of the removal.

In rendering a decision on an application for multiple small wireless facilities, the county may approve the application as to certain individual small wireless facilities while denying it as to others. A county's denial of any individual small wireless facility or subset of small wireless facilities within an application is not a basis to deny the application as a whole.

(b) Nothing in this section shall be construed to:

- (1) Provide county-based access rights to poles, light standards or structures solely-owned by an investor-owned electric utility or telephone utility;
- (2) Impair access rights provided under title 47 United States Code section 224 or its implementing regulations;
- (3) Relieve wireless infrastructure providers from existing facility attachment requirements attached to private investor-owned utility poles, including but

not limited to compliance with the applicable provisions of Hawaii Administrative Rules chapter 6-73; or

- (4) Limit the right of the county to require an indemnification agreement as a condition of a provider's facilities attaching to a county-owned utility pole, light standard, ~~building,~~ or structure."

SECTION 5. Section 27-41.1, Hawaii Revised Statutes, is amended by adding fourteen new definitions to be appropriately inserted and to read as follows:

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Collocation" means the installation, mounting, maintenance, modification, operation, or replacement of wireless or wireless broadband service equipment on a tower, utility pole, light standard, ~~building,~~ or other existing structure.

Collocation and co-location have the same meaning. Collocating is the act of causing a collocation.

"General applicability" means laws, regulations, or processes that apply objective requirements to all persons or services in a nondiscriminatory manner.

"Light standard" means a street light, light pole, lamp post, street lamp, lamp standard, or other raised source of

light located inside the right-of-way of a public road or highway, or utility easement.

"Micro wireless facilities" means small wireless facilities that are no larger in dimension than twenty-four inches long, fifteen inches in width, twelve inches in height, and that has an exterior antenna, if any, no longer than eleven inches.

~~"Public property" means property owned or controlled by the State, state agencies, or a county and includes buildings, water tanks, decorative poles, and light standards.~~

"Rights-of-way" means the areas on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property.

"Small wireless facilities" means a wireless facility that meets the following qualifications:

- (1) Each individual antenna, excluding the associated equipment, is individually no more than three cubic feet in volume, and all antennas on the structure total no more than six cubic feet in volume; and
- (2) All other wireless equipment associated with the structure, excluding cable runs for the connection of power and other services, do not cumulatively exceed:
 - (A) Twenty-eight cubic feet for collocations on all non-pole structures, including buildings and

water tanks, that can support fewer than three providers;

(B) Twenty-one cubic feet for collocations on all pole structures, including light poles, traffic signal poles, and utility poles, that can support fewer than three providers;

(C) Thirty-five cubic feet for non-pole collocations that can support at least three providers; or

(D) Twenty-eight cubic feet for pole collocations that can support at least three providers.

"Small wireless facilities network" means a group of interrelated small wireless facilities designed to deliver wireless communications service. "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 is otherwise not adjacent to or directly associated with a particular antenna.

"Telecommunications service" or "telecommunications" shall have the same meaning as in section 269-1.

"Utility pole" means a pole or similar structure that is used in whole or in part for communications service, electric service, lighting, traffic control, signage, or similar functions.

"Wireless facility":

(1) Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(A) Equipment associated with wireless communications;
and

(B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and

(2) Does not include:

(A) The structure or improvements on, under, or within which the equipment is collocated;

(B) Wireline backhaul facilities; or

(C) Coaxial or fiber-optic cable between utility poles or that is otherwise not adjacent to or directly associated with a particular antenna.

"Wireless provider" means a person or entity that is:

(1) A provider as defined in section 440J-1;

(2) A provider of wireless telecommunications service; or

(3) Authorized in accordance with chapter 269 to provide facilities-based telecommunications services in the State and builds, installs, operates, or maintains facilities and equipment used to provide fixed or mobile services through small wireless facilities.

"Wireline backhaul" means the transport of communications or information by wire from small wireless facilities to a network."

SECTION 6. Section 46-15.6, Hawaii Revised Statutes, is amended by adding thirteen new definitions to be appropriately inserted and to read as follows:

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Collocation" means the installation, mounting, maintenance, modification, operation, or replacement of wireless or wireless broadband service equipment on a tower, utility pole, light standard, ~~building~~, or other existing structure. Collocation and co-location have the same meaning. Collocating is the act of causing a collocation.

"General applicability" means laws, regulations, or processes that apply objective requirements to all persons or services in a nondiscriminatory manner.

"Light standard" means a street light, light pole, lamp post, street lamp, lamp standard, or other raised source of light located inside the right-of-way of a public road or highway, or utility easement.

"Micro wireless facilities" means small wireless facilities that are no larger in dimension than twenty-four inches long,

fifteen inches in width, twelve inches in height, and that has an exterior antenna, if any, no longer than eleven inches.

~~"Public property" means property owned or controlled by the State, state agencies, or a county and includes buildings, water tanks, decorative poles, and light standards.~~

"Rights-of-way" means the areas on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property.

"Small wireless facilities" means a wireless facility that meet the following qualifications:

- (1) Each individual antenna, excluding the associated equipment, is individually no more than three cubic feet in volume, and all antennas on the structure total no more than six cubic feet in volume; and
- (2) All other wireless equipment associated with the structure, excluding cable runs for the connection of power and other services, do not cumulatively exceed:
 - (A) Twenty-eight cubic feet for collocations on all non-pole structures, including buildings and water tanks, that can support fewer than three providers;
 - (B) Twenty-one cubic feet for collocations on all pole structures, including light poles, traffic signal

poles, and utility poles, that can support fewer than three providers;

(C) Thirty-five cubic feet for non-pole collocations that can support at least three providers; or

(D) Twenty-eight cubic feet for pole collocations that can support at least three providers;

"Small wireless facilities network" means a group of interrelated small wireless facilities designed to deliver wireless communications service. "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 is otherwise not adjacent to or directly associated with a particular antenna.

"Utility pole" means a pole or similar structure that is used in whole or in part for communications service, electric service, lighting, traffic control, signage, or similar functions.

"Wireless facility":

(1) Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(A) Equipment associated with wireless communications; and

(B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and

(2) Does not include:

(A) The structure or improvements on, under, or within which the equipment is collocated;

(B) Wireline backhaul facilities; or

(C) Coaxial or fiber-optic cable between utility poles or that is otherwise not adjacent to or directly associated with a particular antenna.

"Wireless provider" means a person or entity that is:

(1) A provider as defined in section 440J-1;

(2) A provider of wireless telecommunications service; or

(3) Authorized in accordance with chapter 269 to provide facilities-based telecommunications services in the State and builds, installs, operates, or maintains facilities and equipment used to provide fixed or mobile services through small wireless facilities.

"Wireline backhaul" means the transport of communications or information by wire from small wireless facilities to a network."

SECTION 7. Section 205-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre, except as provided by county ordinance pursuant to section 46-4(c), in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots except that within a subdivision, as defined in section 484-1, the commission for good cause may allow one lot of less than one-half acre, but not less than eighteen thousand five hundred square feet, or an equivalent residential density, within a rural subdivision and permit the construction of one dwelling on such lot; provided that all other dwellings in the subdivision shall have a minimum lot size of one-half acre or 21,780 square feet. Such petition for variance may be processed under the special permit procedure. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics. Rural districts shall also include golf courses, golf driving ranges, and golf-related facilities.

In addition to the uses listed in this subsection, rural districts shall include geothermal resources exploration and geothermal resources development, as defined under section

182-1, and wireless communication antenna, as defined under section 204-4.5(a)(18), as permissible uses."

SECTION 8. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within the agricultural district, all lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B and for solar energy facilities, class B or C, shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where

agricultural activity provides income to the family occupying the dwelling;

- (5) Public institutions and buildings that are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section 205-2(d)(15);
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities,

photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);

(11) Agricultural parks;

(12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:

(A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;

(B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or

- (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (13) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2;

- (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
- (16) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuel processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.

For the purposes of this paragraph:

"Appurtenances" means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuel processing facilities.

"Biofuel processing facility" means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and

waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy;

- (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.

As used in this paragraph:

"Agricultural activity" means any activity described in paragraphs (1) to (3) of this subsection.

"Agricultural-energy enterprise" means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.

"Agricultural-energy facility" means a facility that generates, stores, or distributes renewable

energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.

"Appurtenances" means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities;

- (18) Construction and operation of wireless communication antennas[+], including small wireless facilities or small wireless facilities networks; provided that, for the purposes of this paragraph, "wireless communication antenna" means communications equipment that is either freestanding or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection; provided further

that "small wireless facilities" shall have the same meaning as set forth in sections 27-41.1 and 46-15.6;

- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this paragraph, "agricultural education programs" means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;
- (20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser or for which a special use permit is granted pursuant to section 205-6; provided that this use shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A unless the solar energy facilities are:

- (A) Located on a paved or unpaved road in existence as of December 31, 2013, and the parcel of land upon which the paved or unpaved road is located has a valid county agriculture tax dedication status or a valid agricultural conservation easement;
 - (B) Placed in a manner that still allows vehicular traffic to use the road; and
 - (C) Granted a special use permit by the commission pursuant to section 205-6;
- (21) Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:
- (A) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;
 - (B) Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission prior to date of commencement of commercial generation; and

(C) Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:

(i) Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and

(ii) Restoration of the disturbed earth to substantially the same physical condition as existed prior to the development of the solar energy facility.

For the purposes of this paragraph, "agricultural activities" means the activities described in paragraphs (1) to (3);

(22) Geothermal resources exploration and geothermal resources development, as defined under section 182-1; or

(23) Hydroelectric facilities, including the appurtenances associated with the production and transmission of hydroelectric energy, subject to section 205-2; provided that the hydroelectric facilities and their appurtenances:

(A) Shall consist of a small hydropower facility as defined by the United States Department of Energy, including:

- (i) Impoundment facilities using a dam to store water in a reservoir;
 - (ii) A diversion or run-of-river facility that channels a portion of a river through a canal or channel; and
 - (iii) Pumped storage facilities that store energy by pumping water uphill to a reservoir at higher elevation from a reservoir at a lower elevation to be released to turn a turbine to generate electricity;
- (B) Comply with the state water code, chapter 174C;
- (C) Shall, if over five hundred kilowatts in hydroelectric generating capacity, have the approval of the commission on water resource management, including a new instream flow standard established for any new hydroelectric facility; and
- (D) Do not impact or impede the use of agricultural land or the availability of surface or ground water for all uses on all parcels that are served by the ground water sources or streams for which hydroelectric facilities are considered."

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on May 22, 2050;
provided that this Act shall apply to permit applications filed
with the State or county after January 1, 2018.

Report Title:

Broadband; Small Wireless Facilities; Siting Process; State- and County-owned Structures; Permits

Description:

Establishes 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. Establishes the siting process. Takes effect on 5/22/2050. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 9:36 AM
To: CPH Testimony
Cc: jstone@nulaw.net
Subject: *Submitted testimony for HB625 on Mar 30, 2017 09:30AM*

HB625

Submitted on: 3/29/2017

Testimony for CPH/WAM on Mar 30, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
James Stone	Airport Concessions Committee	Oppose	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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MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, & HEALTH AND
COMMITTEE ON WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
THURSDAY, MARCH 30, 2017 AT 9:30 A.M.**

To The Honorable Rosalyn H. Baker, Chair;
The Honorable Clarence K. Nishihara, Vice Chair; and
Members of the Committee on Commerce, Consumer Protection & Health

To The Honorable Jill N. Tokuda, Chair;
The Honorable Donovan M. Dela Cruz, Vice Chair; and
Members of the Committee on Ways and Means

TESTIMONY IN SUPPORT FOR HB 625 RELATING TO INFRASTRUCTURE

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce representing approximately 600 businesses and 16,000 employees. I am writing share our support of HB625.

We support this bill HB625 HD3 SD1 that establishes a collocation permitting, application, review and approval process for telecommunications companies proposing to install broadband infrastructure.

There is a growing demand for faster and more reliable wireless networks in Hawaii with the increased usage of wireless devices. Local businesses, residents, and our visitors expect the best network available, but this cannot be achieved without small wireless facilities. Also broadband linkages are very important for market expansion, both to domestic and international markets. Many businesses and residents are already reporting that while 4G networks are offered, they are still experiencing times of very slow access, which hampers operational performance as well. Further, as more businesses are using cloud based services and storage, these speeds become more and more important. We support this bill as it will streamline the process and remove regulatory obstacles for the deployment of small wireless facilities.

We appreciate the opportunity to testify on this matter and therefore ask that this bill be passed.

Mahalo for your consideration of our testimony and we hope you will move this bill forward.

Sincerely,

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.