

SB760 SD1

Measure Title: RELATING TO TELECOMMUNICATIONS.

Report Title: Wireless and Wire Line Facilities; Utility Poles; Permits

Description: Codifies exemptions to permitting requirements established by Act 151, Session Laws of Hawaii 2011, within the Hawaii Revised Statutes and expands those exemptions to include broadband over wire line and wireless or mobile platforms, including wire line facilities and small wireless facilities. Establishes a definition of wireless communications antennas that include small wireless facilities. Establishes a definition of wire line. Repeals those sections of Act 151, Session Laws of Hawaii 2011, that have been codified within the Hawaii Revised Statutes. (SD1)

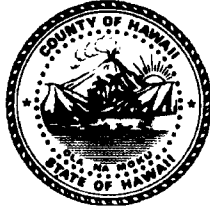
Companion:

Package: None

Current Referral: ETT, CPH/WAM

Introducer(s): WAKAI, Nishihara

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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February 23, 2017

Senator Rosalyn Baker
Commerce, Consumer Protection and
Health
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chairs Baker and Tokuda, and members:

RE: SB 760, SD 1, SB 1201, SD 1

Thank you for this opportunity to testify against SB 760, SD1, and SB 1201, SD1 in their present form, but to urge further consideration.

SB 760, SD1, and SB 1201, SD1 deal with the installation of telecommunication facilities on county-owned property. They are complicated, far reaching in scope, and raise substantial questions related to fairness and public safety. Fortunately, our concerns are mirrored by the State and the other counties, and we trust that the legislative process will yield a satisfactory result.

While we are not well positioned to negotiate the details of these bills, it is our understanding that the City and County of Honolulu is working with the telecommunication companies to find common ground. We look forward to the outcome of those discussions.

Primary among numerous concerns we have is that, if these bills were to pass in their 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. The bills raise concerns because they say actions relating to the installation, construction, development, or improvement of broadband networks will be exempt from County permitting requirements. The bills do not state that an entity seeking to install or construct equipment for a broadband network must apply with the State or an affected utility or County, but instead provide that an entity proposing such an action must post

Rosalyn Baker
Commerce, Consumer Protection
and Health
February 23, 2017

notice of this intent on the Department of Commerce and Consumer Affairs website. These bills also allow “utilities” (but not the State or counties) to reject an application to co-locate if collocation is going to overburden existing equipment.

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. The bills do not 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 doesn’t define “structure,” it could be read to allow wireless equipment to be placed on any County owned or operated building.

SB 760, SD1 totally exempts wireless equipment from any County permits. It requires the wireless companies to provide notice prior to installation to the DCCA but not to an affected county. It allows utilities to reject applications but doesn’t provide counties that authority and doesn’t have any process for applications. It requires 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.

SB 760, SD1 would also seem to limit 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.

For the above reasons, we cannot support the current drafts.

Rosalyn Baker
Commerce, Consumer Protection
and Health
February 23, 2017

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.

Please assure that these bills do 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.

Respectfully submitted,



Harry Kim
Mayor



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 COMMITTEES ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH
AND
WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Date: Tuesday, February 28, 2017
Time: 9:30 a.m.

TESTIMONY ON S.B. NO. 760, S.D. 1 – RELATING TO TELECOMMUNICATIONS.

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 provide comment on S.B. No. 760, S.D. 1, which codifies Act 151, Session Laws of Hawaii 2011, as amended (“Act 151”), and expands its provisions to exempt deployment of small wireless and wireline facilities and networks from certain state and county permitting and approval processes.

The Department defers to the state and county agencies responsible for permitting and other approvals on how this bill may impact their ability to review telecommunication infrastructure deployments for health and safety purposes, as well as to minimize visual impacts to our communities. The Department further defers to those agencies that serve as state and county asset owners and managers regarding possible impacts of this bill, including the fee provisions, on their ability to manage, maintain, and preserve those assets and to perform government operations.

The Department supports regulatory streamlining that can expedite broadband infrastructure deployment while creating and protecting an even playing field for the various technologies and providers who offer or seek to offer communications services in the State. The Department thus appreciates the changes to the bill reflected in the S.D. 1 for this purpose and to address other concerns raised. For consideration by your Committees, the Department provides the following additional comments.

First, Act 151 currently requires at Section 2, subsection (3), that for the exemption provided under its terms to apply, an action taken must “[m]ake no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure.” S.B. No. 760, S.D. 1, deletes the term “telecommunications infrastructure” and inserts new language at page 6, lines 14-17, that would deem the installation of a small wireless or wireline facility “to not make a significant change to existing public rights-of-way or public utility easements.” These changes appear to significantly change the intent and impact of Act 151, by allowing actions that will likely make significant changes to existing telecommunications infrastructure, public rights-of-way or public utility easements to do so outside of a review or approval process. The Department defers to the appropriate state and counties agencies for further comment on the possible impacts of this proposed amendment to Act 151.

Second, the Department notes that S.B. No. 760, S.D. 1, amends current law by adding a new part to Chapter 440J, Hawaii Revised Statutes, which provides for information reporting by cable operators, telecommunications carriers, and telecommunications common carriers that provide broadband service. Because S.B. No. 760, S.D. 1 contains provisions that apply to statewide land use, rights-of-way, and public easements, including permitting and other land use approvals, the Department queries whether this measure is more appropriately placed into state and county statutes of statewide applicability, such as Chapters 27 (pertaining to the state) and 46 (pertaining to the counties), Hawaii Revised Statutes, and defers to the appropriate agencies for further comment on this issue.

Third, S.B. No. 760, S.D. 1, at page 9, line 11 to page 10, line 3, sets an annual recurring rate at an amount that shall not exceed the lesser of (a) the amount charged under rules adopted by the Federal Communications Commission (FCC) under title 47 United States Code section 224(e) or (i); or (b) \$20 per year. The Department defers to those agencies that serve as state and county asset owners and managers on the reasonableness of setting a specific dollar amount by statute. However, the Department respectfully suggests that the term “structures” in section (a) on page 9, line

15, be deleted because the FCC telecommunication pole attachment rate formula used in that paragraph under section (b)(1) applies to attachments to utility poles, and could reasonably be applied to other similar type poles such as light standards, but would likely be inapplicable and inappropriate for attachments to most other types of structures, such as buildings, water tanks, and towers. Further, the \$20 per year set rate option under section (b)(2) also does not appear to reflect a charge that is related to the actual, direct, and reasonable costs incurred for use of space on utility poles, structures, and lighting standards.

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 and Tourism
before the
**SENATE COMMITTEES ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH
AND WAYS AND MEANS**
Tuesday, February 28, 2017
9:30 AM
State Capitol, Conference Room 211
in consideration of
SB 760, SD1
RELATING TO TELECOMMUNICATIONS.

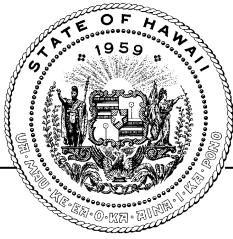
Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz and Members of the Committees.

The Department of Business, Economic Development and Tourism (DBEDT **opposes** SB 760, SD1. DBEDT prefers SB 1201, SD1 which expedites the deployment of small wireless infrastructure.

SB 760, SD1 repeals sections of Act 151(11) and codifies, in HRS Ch. 440J, exemptions of the installation of broadband equipment from various county and state permitting requirements, Chapters 171, 205A, and 343, and Public Utility Commission administrative rules; expands the exemptions permitted by Act 151 to include small wireless facilities. DBEDT does not oppose the codification of the existing exemptions, we oppose the expansion of exemptions to cover all new wireline and wireless installations on state and county poles, standards and structures.

State and county agencies have investments in wireline and wireless infrastructure for public services. These agencies need to review the carriers' plans for siting of new wireless facilities to ensure they don't interfere with public safety, traffic management and emergency management communications. SB 1201, SD1 allows state and county agencies with jurisdiction over poles, standards, buildings and structures to issue permits, not subject to contested case hearings, to expedite the installation of small wireless equipment to promote our economy.

SB760, SD1, which provides broad exemptions from all state and county permits does not allow public agencies to ensure that the public safety is protected. Thank you for the opportunity to offer these comments on SB760, 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 AND
WAYS AND MEANS**

Tuesday, February 28, 2017

9:30 AM

State Capitol, Conference Room 211

in consideration of
SB 760, SD1
RELATING TO TELECOMMUNICATIONS.

Chairs Baker and Tokuda, Vice Chairs Nishihara and Dela Cruz, and Members of the Senate Committees on Commerce, Consumer Protection and Health, and Ways and Means.

The Office of Planning (OP) supports the intent of SB 760, SD1 and provides the following comments.

SB 760, SD1 repeals sections of Act 151(11) and codifies, in HRS Ch. 440J, exemptions of the installation of broadband equipment from various county and state permitting requirements, Chapters 171, 205A, and 343, and Public Utility Commission administrative rules; expands the exemptions permitted by Act 151 to include small wireless facilities.

The intent of SB760, SD1 supports implementation of Hawaii Revised Statutes (HRS) Chapter 226-103 Economic Priority Guidelines (g) (7) Encourage the location of co-location of telecommunications or wireless information relay facilities in the community, including public areas, where scientific evidence indicates that the public health, safety, and welfare would not be adversely affected.

However, exemptions from HRS Chapter 205A remove the requirement to analyze a project or installation's overall impacts from ensuring consistency with objectives, policies, law, standards, and procedures to guide and regulate public and private uses in the coastal zone management area. Therefore, OP finds that broad exemptions in SB 760, SD1 from comprehensive review of small wireless facilities installation may not provide a suitable analysis "ensuring public health, safety, and welfare" as stated above.

Thank you for the opportunity to provide testimony on this measure.

**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.**

**Tuesday, February 28, 2017
9:30 a.m., Conference Room 211**

**Senate Bill 760 SD1
Relating to Telecommunications**

Chairs Baker and Tokuda, Vice Chairs Nishihara and 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 SB 760 SD1.

We support and encourage the deployment of high-speed broadband infrastructure in Hawaii, and, as an active participant in, the efforts of the Legislature and the Broadband Assistance Advisory Council (BAAC) to streamline the permitting process applicable to the State's broadband initiative. Although we have testified in support of Act 151, Session Laws of Hawaii 2011, in support of the amendments adopted in Act 264, Session Laws of Hawaii 2013, and in support of the amendments adopted in Act 193, Session Laws of Hawaii 2016, we have the following concerns with SB 760 SD1 as written:

1. The proposed amendment to SECTION 2, Chapter 440J, Hawaii Revised Statutes, §440J-A Definitions, on page 4, line 4 of SB 760 SD1, defines "Utility pole" as ***"a public or private pole or similar structure that is used in whole or in part for communications services, electronic service, lighting, traffic control, signage, or similar functions."*** This definition clearly includes the fleet of poles owned either solely or jointly by the Hawaiian Electric Companies. As sole or joint owners of such poles, we are required by the Public Utilities Commission to comply with specific engineering and safety standards to ensure public safety. To ensure any person or entity taking action under this section, and who attaches small wireless or wireline facilities onto Hawaiian Electric Companies' poles,

complies with the same safety and engineering requirements, we respectfully propose that paragraph (3) in SECTION 2, §440J-B Exemptions of broadband infrastructure installation from permitting requirements, subsection (a), on page 5, lines 7-11 that states: ***“(3) Public utilities commission rules under Hawaii Administrative Rules, chapter 6-73, that require existing installations to comply with new pole replacement standards at the time of any construction or alteration to the equipment or installation;”*** be deleted.

2. The proposed amendment to SECTION 2, Chapter 440J, Hawaii Revised Statutes, §440J-B Exemptions of broadband infrastructure installation from permitting requirements, subsection (b), paragraphs (2) and (3), starting on page 6, line 6 of SB 760 SD1, states: ***“(2) Take place within existing rights-of-way or public utility easements or use existing telecommunications infrastructure; and (3) Make no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure; provided that the installation of wire line facilities and a small wireless facility within the dimensions stated in section 440J-A, shall be deemed to not make a significant change to existing public rights-of-way, public utility easements, or telecommunications infrastructure.”*** Our interpretation of these paragraphs is that such wire line and small wireless facility installations would be deemed by operation of law as being included in the public rights-of-way or existing public utility easements. Our concern is that while the Hawaiian Electric Companies do obtain public utility easements for the installation, operation, and maintenance of our own facilities, we have no legal authority to presume that grantors of such easements are deemed to consent to third party telecommunication attachers. Consequently, we are not authorized to grant perpetual easement rights on behalf of private easement grantors to third party attachers without the consent of such grantors. Therefore we propose paragraph (2), on page 6, line 6, be amended to read: ***“(2) Take place within existing rights-of-way [~~or public utility easements~~] or use existing telecommunications infrastructure;”*** and paragraph (3), on page 6, line 9, be amended to read: ***“(3) Make no significant changes to the existing public rights-of-way[, ~~public utility easements,~~] or telecommunications infrastructure; provided that the installation of wire line facilities and a small wireless facility within the dimensions stated in section 440J-A, shall be deemed to not make a significant change to existing public rights-of-way[, ~~public utility easements,~~] or telecommunications infrastructure.”***
3. The proposed amendment to SECTION 2, Chapter 440J, Hawaii Revised Statutes, §440J-D Annual recurring rates, subsection (a), on page 9, line 11 of SB 760 SD1, states: ***“The State***

or county may establish an annual recurring charge on wire line facilities or small wireless facilities and wire line facilities networks and small wireless networks or wire line facilities networks collocated on utility poles, structures, and lighting standards located within the public rights-of-way.” Our concern is it is unclear if the reference to “***utility poles***” is poles only owned by the State and/or county, or jointly owned with the Hawaiian Electric Companies. If the reference to “***utility poles***” is poles only owned by the State and/or county, we propose subsection (a), on page 9, line 11 be amended to read: ***“The State or county may establish an annual recurring charge on wire line facilities or small wireless facilities and wire line facilities networks and small wireless networks or wire line facilities networks collocated on utility poles, structures, and lighting standards , all of which are only owned by the State and/or county, and located within the public rights-of-way.”*** If the reference to “utility poles” is to include poles jointly owned with the Hawaiian Electric Companies, we have additional concerns about the rational basis of this annual recurring rate calculation and reasonableness of the protocols for collection and administration by the State or county.

We appreciate the support of the Legislature in hearing and understanding our concerns as we work together to address these issues.

Thank you for the opportunity to testify on this matter.

SB 760 SD1

RELATING TO TELECOMMUNICATIONS

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

February 28, 2017

Chairs Baker and Tokuda and members of the Committees:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on SB 760 SD1 - Relating to Telecommunications.

The purpose of this bill is to facilitate the deployment of high-speed broadband infrastructure in Hawaii. Although Hawaiian Telcom supports the general intent of SB 760 SD1 as well as SB 1201 SD1, we believe that the benefits afforded to small wireless facilities under this measure should apply equally to wireline broadband infrastructure as well.

In order to maintain a fair and level regulatory playing field and facilitate the statewide rollout of advanced broadband services, Hawaiian Telcom respectfully requests that the bill be amended to add the term “wireline” to coincide with the term wireless services and facilities where applicable.

We also request that the bill be amended on page 9 line 15 by adding the terms “*state solely-owned or county solely-owned*” after the word “on” and “*within the state and county’s designated space*” after the word “standards” to clarify that the state and county collocation pole fees shall be limited to the use of the state or county solely-owned poles and designated collocation space.

Measures designed to encourage and promote both wireline and wireless services provide Hawaii’s consumers with the best opportunity to receive both the advanced broadband services that they need and at competitive prices.

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

Thank you for the opportunity to testify.

**Testimony of Mobilitie, LLC
IN SUPPORT OF SB 760 SD1, Relating to Telecommunications
Before the Senate Commerce, Consumer Protection, and Health Committee, and the Senate Ways
and Means Committee
Tuesday, February 28, 2017 9:30 am
Conference Room 211, State Capitol**

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

Mobilitie supports SB 760 SD1, which codifies exemptions to permitting requirements established by Act 151, Session Laws of Hawaii 2011, within the Hawaii Revised Statutes and expands those exemptions to include broadband over wireless or mobile platforms, including small wireless facilities. In addition, SB 760 SD1 establishes a definition of wireless communications antennas that includes small wireless facilities, and repeals those sections of Act 151, Session Laws of Hawaii 2011, which have been codified with the Hawaii Revised Statutes.

Mobilitie is a nationwide provider of wireless infrastructure solutions, currently deploying a hybrid transport network designed to provide high-speed, high-capacity bandwidth in order to facilitate the next generation of devices and data-driven services. Currently in Hawaii, Mobilitie is authorized by the Public Utilities Commission to provide telecommunications services under its' Certificate of Authority.

SB 760 SD1 is much needed legislation that takes into account that broadband technology has advanced substantially since 2011, and wireless technology is now essential to the delivery of broadband. SB 760 SD1 will permit the industry to efficiently and rapidly deploy much needed broadband technology in the State of Hawaii. The expanded exemptions which include wireless broadband will enable Mobilitie and other industry to densify the current network in order to sustain the data needs of today, while building in capacity for future technologies that support 5G.

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 SB 760 SD1.

Thank you for the opportunity to testify.



February 27, 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 Senate Bill 760 SD1– Act 151 And Small Wireless Facilities

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 Senate Bill 760 SD1, related to Act 151 and 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, 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 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. In recognition of this explosive demand for data, Senate Bill 760

¹ U.S. Census, Population Estimates, at <http://www.census.gov/data/tables/2016/demo/popest/state-total.html>, last accessed 2/27/2017.

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 2/27/2017.

³ Broadband Now, Broadband Internet in Hawaii, at: <http://broadbandnow.com/hawaii>, last accessed 2/27/2017.

SD1 seeks to clarify Act 151 of 2011 by ensuring wireless broadband and small wireless facilities are treated similarly as other broadband deployments.

By way of background, 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 will be required for higher-frequency 5G spectrum. 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 ten times faster than today. Imagine communities that are smarter and more connected. Entire industries, from public safety to transportation, will be transformed.

Senate Bill 760 SD1 helps to advance this future by clarifying Act 151 enacted in 2011. Act 151 was enacted to exempt certain broadband facility deployments from permitting requirements. Senate Bill 760 SD1 seeks to clarify that wireless broadband and small wireless facilities are treated similarly and included in this exemption. Senate Bill 760 SD1 helps to remove barriers to efficient deployment of small cell wireless infrastructure and provides regulatory certainty for providers.

In closing, wireless providers require regulatory certainty when deploying wireless infrastructure. Senate 760 SD1 clarifies existing broadband deployment statute to ensure that wireless providers can meet the demands of their customers.

Thank you for the opportunity to submit testimony in support of Senate Bill 760 SD1 and we urge its approval.

Sincerely,

A handwritten signature in black ink that reads "Bethanne Cooley". The signature is written in a cursive, flowing style.

Bethanne Cooley
Director, State Legislative Affairs
CTIA



Joyce Masamitsu
Director, Public Policy & Legal Affairs
Pacific and North Central Markets
15505 Sand Canyon Avenue
Irvine, CA 92618

February 28, 2017

Honorable Rosalyn Baker
Chair, Senate Committee on Commerce,
Consumer Protection, and Health
Hawaii State Capitol, Room 216
Honolulu, HI 96813

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

RE: SENATE BILL 760 SD1 – Relating to Telecommunications - SUPPORT

Dear Chairs Baker and Tokuda,

On behalf of Verizon, mahalo for allowing me to submit testimony in STRONG SUPPORT of SB 760 SD1, Relating to Telecommunications. SB 760 SD1 codifies the exemptions to state and county permitting requirements for broadband projects in Act 151, S.L.H. 2011, into Hawaii Revised Statutes and clarifies that the exemptions in Act 151 are applicable to small wireless facilities.

SB 760 SD1 also clarifies that small wireless facility installations and broadband projects shall be exempt from specified permitting provided that the installations are directly related to improving these facilities on existing, replacement or new poles. The bill continues to disallow exemptions where permitting is required by federal law or for federal funding and defines small wireless facilities and small wireless facilities network based on a definition and dimensions in Federal Communication Commission regulations. Finally, SB 760 SD1 authorizes the state or counties to impose a specified charge for attaching small wireless facilities to government poles or structures, including poles used for lighting.

SB 760 SD1 will provide the necessary clarifications in existing law to expedite the deployment of small wireless facilities, improving current coverage and laying the foundation for the availability of 5G technologies.

According to CTIA, there are approximately 1,450,000 wireless subscribers in the state of Hawaii and 95% of Hawaii residents have access to mobile broadband. Explosive growth in the demand for mobile data presents a network capacity challenge for wireless providers. Throughout the state of Hawaii growing demand is reducing available capacity across existing wireless infrastructure, leading to network congestion. This is a trend which is occurring nationwide where 292.2 million mobile users are expected by 2020. The end result is slower broadband speeds, shrinking cellular footprints and increased coverage problems evidenced by an increase in dropped calls. Rather than continue to build “macro” cell towers to meet demand, carriers can and in many cases must now deploy small wireless facilities to address network capacity challenges. Small wireless facilities deployed in greater quantity offloads capacity from existing macro towers and improve the user experience for subscribers in the immediate service area.

Small wireless facilities are relatively new and much smaller than macro towers. Small wireless facilities normally consist of a small antenna, radios (that process the spectrum) and certain support equipment mounted on utility poles, street lights, signs, bus shelters, traffic signals or other host structures. Although the designs may vary slightly as required to support the network in a particular area, small cells typically consist of a 40" tall by 12" diameter canister antenna; cables down the pole to 1 or 2 radio heads; an electrical disconnect switch in the junction box that will power down the antenna if crews will be working on or near the antenna; and unless the electric utility allows a flat fee arrangement, a power meter. For most installations, small cell are connected to the wireless network by fiber, which may be installed aerielly or underground as required in the area. These deployments are designed to blend into the existing environment as much as possible. Indeed, due to their small size and unobtrusive design, they are aesthetically pleasing compared to traditional "macro" cell towers.

Creating a streamlined legal framework for small wireless facilities is critical to their deployment to meet current mobile users' demands as well as the next generation wireless network: 5G. This new technology—spawned by the new release of "millimeter wave" spectrum—will be truly a game changer. 5G is 100x faster than the current technology, 4G, and 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. Smart City solutions can prove fruitful to meet the pressing needs of state and local governments. Solutions such as intelligent lighting, intelligent traffic and smart meters can facilitate significant reduction of energy consumption while supporting the state's sustainability goals and more.

In sum, SB 760 SD1 helps to streamline permitting by clarifying that small wireless facilities deployment shall benefit from the specified permitting exemptions already in law; those enacted in Act 151. It encourages ongoing investment in wireless broadband data technology that consumers, business and government increasingly demand and helps set the stage for the 5G revolution that is imminent.

Verizon nevertheless cautions that amendments adding wireline to the bill are inconsistent with the purpose of this bill, which is to provide small wireless facilities used for broadband purposes with the same streamlined permitting process as those already enjoyed by wireline companies, while recognizing the fact that small wireless facilities will be attached to only a small fraction of poles. A wireline network attaches to and covers virtually every pole in the right of way. Verizon therefore recommends that the Committee remove the wireline additions.

Chairs Baker and Tokuda, Vice Chairs Nishihara and De La Cruz and members of the Senate Committees on Commerce, Consumer Protection and Health and Senate Committee on Ways and Means, for the above reasons, Verizon requests your vote to SUPPORT Senate Bill 760 SD1.

Thank you for your consideration.

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

**TESTIMONY REGARDING
SB 760 SD 1 RELATING TO TELECOMMUNICATIONS**

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

**February 28, 2017
9:30 AM**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE RESPECTIVE 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 SB 760 SD1 would create an uneven playing field by crafting special rules for the placement of small wireless and wireline facilities in the public rights-of-way. SB760 SD1 was amended to expressly expand the reach of this measure to wireline technologies and facilities. Access to public rights-of-way should be equitable access for all occupiers.

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. This legislation would go one step further, allowing companies that are building a series of *wireline* networks to circumvent the processes applicable to cable providers simply because they deliver content to customers over a wireless device like a mobile phone.

The permitting exemptions and expedited process contemplated by this legislation does not apply only to the antennas themselves. The definition of “small wireless facilities” in SB 760 SD1, for example, appears to include all “associated equipment”, which seems to encompass “cable runs for the connection of power and other services.” Use of the term “associated equipment” for the provision of “other services” is a clear example of the bills’ effort to broaden its application beyond the stated purpose of wireless facility deployment and cover all uses of the public rights-of-way, including a series of wireline connections between wireless antenna sites. In addition, the permitting exemptions contained in this measure would also be expanded to included wireline facilities.

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.

Finally, it is important to note that requiring underlying right-of-way authority also ensures better coordination among the entities within the public rights-of-way (electric, telephone, cable) when plant and network are installed, repaired or replaced. Entities that are allowed to place equipment in the public rights-of-way without such authority can easily jeopardize the network and services of other providers.

SB 760 SD1 makes significant changes to the current process for public right-of-way access and create 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.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2017 8:49 PM
To: CPH Testimony
Cc: 2019mcnairk@mililanihs.k12.hi.us
Subject: Submitted testimony for SB760 on Feb 28, 2017 09:30AM

SB760

Submitted on: 2/26/2017

Testimony for CPH/WAM on Feb 28, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kayla McNair	Individual	Comments Only	No

Comments: I really like this bill

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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