

STAND. COM. REP. NO.

3169

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2651  
H.D. 2  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committees on Economic Development, Tourism, and Technology and Commerce, Consumer Protection, and Health, to which was referred H.B. No. 2651, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WIRELESS BROADBAND FACILITIES,"

beg leave to report as follows:

The purpose and intent of this measure is to establish a policy framework to upgrade and support next-generation wireless broadband infrastructure by creating a permitting, application, review, and approval process for broadband or wireless service providers to install broadband or wireless facilities on state-owned and county-owned utility poles.

Your Committees received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Department of Transportation; Office of Enterprise Technology Services; CTIA; Verizon Wireless; Maui Hotel and Lodging Association; O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; AT&T; Maui Chamber of Commerce; and Hawai'i Lodging and Tourism Association. Your Committees received testimony in opposition to this measure from one member of the Maui County Council, Airport Concessionaries Committee, and one individual. Your Committees received comments on this measure from the Department of Commerce and Consumer



Affairs; Office of the Mayor, County of Hawaii; Office of the Mayor, City and County of Honolulu; one member of the Maui County Council; Charter Communications; and Hawaiian Telcom.

Your Committees find that wireless broadband services are constantly being upgraded to match the high demand from consumers. Your Committees believe that in order to meet these demands, the State must better prepare itself by updating its wireless networks and facilities to support the updated services. Your Committees find that the State has one of the lowest rankings in broadband network speeds available to consumers and in wireless broadband service availability. Furthermore, while the State may have one of the slowest networks in the nation, there are currently more wireless devices utilizing wireless broadband services than there are people in Hawaii. Your Committees believe that the demand for wireless broadband services will continue to grow and that in order to answer those demands, the State must begin establishing the necessary laws to support updated wireless broadband services.

Your Committees have worked with stakeholders to address some of the concerns of this measure and believe that the collaborative work will bring Hawaii closer to achieving an upgraded wireless network.

Accordingly, your Committees have amended this measure by deleting its contents and replacing them with the language from S.B. No. 2704, S.D. 2, Regular Session of 2018, a substantially similar measure, and further amending it by:

- (1) Replacing references to "wireless service provider" with "communications service provider";
- (2) Updating the purpose section to include information regarding wireline providers;
- (3) Specifying that certain time limits or time constraints shall be counted by calendar days;
- (4) Deleting language that would have exempted state and county poles, related structures, sites, or facilities that support public safety, law enforcement, or emergency communications from this measure and instead requiring that small wireless facilities shall not



interfere with public safety, law enforcement, or emergency communications;

- (5) Inserting language requiring any interference identified by the State, county, or a communications service provider to be resolved according to the requirements and procedures of the Federal Communications Commission following written notification of an interference;
- (6) Inserting definitions for "toll" and "feasible design and collocation standards";
- (7) Inserting language that gives the State or county the authority to condition the approval of an encroachment permit upon compliance with pre-established nondiscriminatory feasible design and collocation standards and allows the State or county to require the communications service provider to pay for the electricity used by a small wireless facility and to place an appropriately sized fuse to control the amount of electricity used;
- (8) Inserting language that requires the State and counties to make available in published guidelines any feasible design and collocation standards established and makes the standards apply ninety calendar days after publication;
- (9) Deleting language that would have allowed communications service providers to place, construct, or install utility poles for collocation;
- (10) Requiring a communications service provider to repair damage done by the service provider to the right of way within thirty calendar days and allows the State or county to make repairs and charge the service provider if the damages are not repaired by the service provider within thirty calendar days;
- (11) Deleting language that would have required the State or county to modify laws or ordinances regulating the development of real property to ensure that new development of real property or redevelopment includes



locations in the right of way capable of accommodating a utility pole or other structures for the placement of a small wireless facility;

- (12) Clarifying that collocation permits may not discriminate against any class of applicants;
- (13) Increasing the time period within which the State or county must notify the applicant in writing if the application is complete, from ten days to twenty business days after receiving the application;
- (14) Clarifying that an application shall be processed within sixty calendar days from the receipt of the initial application;
- (15) Inserting additional conditions under which the State or county may deny a proposed collocation permit;
- (16) Requiring the State or county to document any basis for a denial of a collocation permit in writing and allows the applicant to resubmit a revised application within ninety calendar days;
- (17) Changing the process for the State or county to approve or deny a revised application;
- (18) Requiring a communications service provider to include a phone number in the published notice of receipt of a permit for a consolidated application;
- (19) Inserting language that allows application fees to recover the reasonable costs of employing temporary contractors or vendors to expedite collocation permit processing;
- (20) Amending the types of expenses that shall be excluded from the application fee;
- (21) Clarifying that the application fee for collocation of small wireless facilities shall not exceed the reasonable cost of the service and shall not be levied for general revenue purposes;



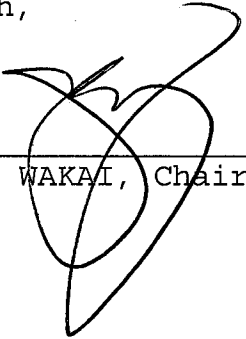
- (22) Deleting language that capped the application fee for collocation of multiple small wireless facilities at \$100 for the first five wireless facilities on the same application and \$50 for each additional facility;
- (23) Clarifying that a reasonable cost-recovery based rate shall not exceed \$40 per pole annually and clarifying that the State or the county shall be responsible for proving that the rate for collocation does not exceed either the reasonable cost-recovery based rate or the actual, direct, and reasonable costs for use of the pole;
- (24) Deleting language that prevented the State or county from requiring a service provider to obtain insurance naming the State or county or its employees as an additional insured;
- (25) Deleting language that capped the total bond amount for communications service providers with multiple small wireless facilities within the jurisdiction of the State or a county at \$10,000;
- (26) Changing its effective date to July 1, 2050; and
- (27) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Economic Development, Tourism, and Technology and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2651, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2651, H.D. 2, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committees on Economic  
Development, Tourism, and  
Technology and Commerce,  
Consumer Protection, and  
Health,

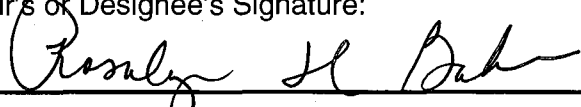
  
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ROSALYN H. BAKER, Chair

  
\_\_\_\_\_  
GLENN WAKAI, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

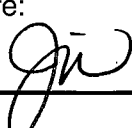
**Record of Votes**  
**Committee on Economic Development, Tourism, and Technology**  
**ETT**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2651 HD2	ETT/CPH, WAM	3/21/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	✓			
TANIGUCHI, Brian T. (VC)				✓
BAKER, Rosalyn H.	✓			
GALUTERIA, Brickwood				✓
THIELEN, Laura H.	✓			
<b>TOTAL</b>	3	-	-	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes

The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

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

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<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will				/
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.				/
RUDERMAN, Russell E.				/
<b>TOTAL</b>	<b>4</b>			<b>3</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
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