

Honolulu, Hawaii  
, 2018

RE: **MAR 23**  
S.B. No. 2704  
S.D. 2  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Intrastate Commerce, to which was referred  
S.B. No. 2704, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to establish the policy and  
permitting framework for the installation of a technologically  
advanced wireless broadband network throughout Hawaii.

More specifically, this measure:

- (1) Establishes a process to upgrade and support small  
wireless facilities and to modify or replace utility  
poles associated with small wireless facilities;
- (2) Establishes a permitting, application, review, and  
approval process for wireless service providers to  
install wireless facilities on State- or county-owned  
utility poles or install utility poles in public rights  
of way;
- (3) Authorizes the State or a county to require a wireless  
provider to consider installing and operating small



wireless facilities and utility poles in rural districts, where economically feasible, particularly in Neighbor Island communities having low- or medium-density concentrations of residents; and

- (4) Clarifies that the processes established by this measure do not apply to state and county poles, related structures, sites, or facilities that support public safety, law enforcement, or emergency communications.

AT&T, Verizon Wireless, Hawaiian Telcom, CTIA, Hawai'i Lodging & Tourism Association, Maui Chamber of Commerce, Maui Hotel & Lodging Association, and Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i supported the measure. A Maui County Councilmember, Charter Communications, and two concerned individuals opposed the measure. The Department of Commerce and Consumer Affairs; Department of Business, Economic Development and Tourism; Department of Land and Natural Resources; Department of Transportation; Office of Enterprise Technology Services of the State of Hawaii; Mayor of the City and County of Honolulu; Mayor of the County of Hawaii; and Airport Concessionaires Committee submitted comments.

Your Committee has amended this measure by deleting its contents and replacing it with the substance of H.B. No. 2651, H.D. 2, and including the following additional amendments:

- (1) Replacing the term "broadband or wireless facility" with a new definition of "wireless facility";
- (2) Clarifying the definition of "applicable codes";
- (3) Adding a definition for "communications service";
- (4) Modifying the definition of "communications service provider";
- (5) Replacing the term "broadband or wireless provider" with the term "wireless provider";
- (6) Replacing the term "broadband or wireless support structure" with the term "wireless support structure";



- (7) Replacing the term "micro broadband or wireless facilities" with the term "micro wireless facilities";
- (8) Modifying the definition of "wireline backhaul";
- (9) Specifying that nothing in this measure will be construed to modify existing permitting processes for the placement of wireline backhaul in the right of way;
- (10) Authorizing the Department of Commerce and Consumer Affairs, in its discretion, to require a wireless provider or communications service provider, or affiliate thereof, to obtain a cable franchise if the wireless provider or communications service provider, or affiliate thereof, furnishes video programming services directly to subscribers via, in whole or in part, any communications facility deployed in the right of way;
- (11) Under specified circumstances, allowing a communications service provider or wireless provider to modify, replace, and maintain a utility pole or wireless facility that exceeds set height limits;
- (12) Allowing the State or a county to require a wireless provider to repair all damage to the right of way directly caused by the activities of the wireless provider in the right of way and to return the right of way to the same or better condition before the damage;
- (13) Modifying the lengths of various deadlines from within a certain number of days to within a certain number of working days;
- (14) Allowing the State or a county to deny a proposed collocation of a wireless facility or the modification of a modified or replaced utility pole under certain circumstances;
- (15) Adding interfering with government systems for law enforcement as a reason for the State or a county to deny a proposed collocation of a wireless facility or the modification of a modified or replaced utility pole that otherwise meets specified requirements;



- (16) Clarifying that make-ready work will be performed by a wireless provider or communications service provider;
- (17) Requiring the State and each county to adopt or modify laws, regulations, and agreements for lands within its jurisdiction that make available rates, fees, and other terms that comply with this measure to wireless providers by July 1, 2019;
- (18) Making unspecified the total amount of the bonding requirement that the State or a county may impose on wireless providers with multiple wireless facilities within the jurisdiction of a single state or county;
- (19) Repealing Section 2 of Act 151, Session Laws of Hawaii 2011, as amended by section 3 of Act 264, Session Laws of Hawaii 2013, as amended by Act 193, Session Laws of Hawaii 2016, regarding the exemption from county permitting requirements, state permitting and approval requirements actions relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including the interconnection of telecommunications cables; and
- (20) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee notes that it is not the intent of this measure to increase costs for airports and the general public.

As affirmed by the record of votes of the members of your Committee on Intrastate Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2704, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2704, S.D. 2, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.



Respectfully submitted on  
behalf of the members of the  
Committee on Intrastate  
Commerce,



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TAKASHI OHNO, Chair



