



**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  
**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**  
Wednesday, March 1, 2017  
2:00 PM  
State Capitol, Conference Room 329  
in consideration of  
**HB 625, HD2**  
**RELATING TO INFRASTRUCTURE.**

Chair McKelvey, Vice Chair Ichiyama and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) **strongly supports** HB 625, HD2, which establishes an expedited process for siting small wireless infrastructure on state and county owned land.

DBEDT supports HB 625, HD 2, because this bill allows state and county agencies to issue permits for collocations of small wireless facilities on state and county utility poles, light standards and structures as a permitted use, as opposed to a conditional use or special use permit.

Clarifying in statute that permits for small wireless facilities do not require a contested case hearing will reduce time and workload for state and county agencies and encourage rapid investment and deployment by carriers.

State and county agencies have investments in wireless infrastructure for public services such as emergency management, traffic management, and disaster management and that require them to review the carriers' applications for siting of new wireless facilities to ensure they don't interfere with public safety communications.

Currently, HB 625, HD2, allows applications for up to 25 small wireless installations. Instead, DBEDT recommends that the bill be amended to allow applications to be submitted for geographic areas as follows:

**§27- Collocation permits; application, review, approval.**

(a) A telecommunications carrier proposing to install broadband infrastructure shall submit 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 poles, light standards, buildings, and structures 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 poles, light standards, buildings, and structures; 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 pole, building, or structure.

(b) The agency shall evaluate the impact of collocating the broadband infrastructure described in the application to insure that:

- (1) The equipment installed on the poles, buildings, and structures are done in a manner to protect public health and safety, and safe travel in the public rights-of-way;

- (2) The utility poles and light standards are able to bear the additional weight of the equipment and that the equipment is not a hazard or obstruction to the public; and
- (3) The project equipment and broadband infrastructure does not interfere with government systems for public safety communication operations, emergency services.
- (c) The agency shall notify the applicant that:
  - (1) the permit is approved;
  - (2) the permit is approved with modifications; or
  - (3) the application is returned with a list of questions needing to be answered and information needed in more detail.

DBEDT strongly urges your adoption of HB 625, HD2.

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



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 HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Date: March 01, 2017  
Time: 2:00 p.m.

TESTIMONY ON H.B. NO. 625, H.D. 2 – RELATING TO INFRASTRUCTURE.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

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 H.B. No. 625, H.D. 2, which establishes provisions relating to the siting of small wireless facilities and small wireless facilities networks.

The Department supports permit streamlining that can facilitate statewide access to affordable, high speed broadband services necessary to build a vibrant economy and to improve the quality of life for our residents. The Department thus supports the concept of “batch permitting” for up to 25 small wireless facilities to expedite broadband infrastructure deployment.

Because the Department also recognizes that such streamlining must be balanced against appropriate review, the Department defers to those agencies responsible for permitting and other approvals on how this bill may impact their ability to review attachments to infrastructure 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 the state and county asset owners and managers for comment on possible impacts on their ability to manage, maintain, and preserve those assets and to perform government operations.

The Department appreciates the changes to the bill reflected in the H.D. 2 to address concerns of the various organizations providing comments. For consideration by this Committee, the Department provides the following additional comments.

The Department notes that the first sentence of paragraph (3) on page 3, line 20 to page 4, line 8, provides that the State may require building permits or other permits provided that they are of general applicability, but the second sentence at page 4, lines 4-8 clearly indicates that the section applies to permits **and approvals**, beginning as follows (emphasis added):

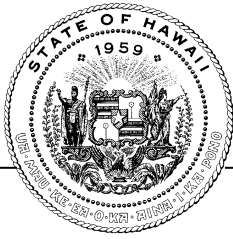
The State shall receive applications for, and process and issue the permits **and approvals** in accordance with applicable laws . . .

Adding “and approvals” after “discretionary permits” on page 4, line 1 and after “permits” on line 4 would make those two sentences consistent and reflect the agency review processes. The Department suggests this same amendment to the county provisions at page 8, lines 18 and 21.

In addition, the Department respectfully suggests that the term “state structure” in paragraph (4) on page 6, lines 2-3, should be deleted because the Federal Communications Commission (FCC) telecommunication pole attachment rate formula applied in that paragraph applies to attachments to utility poles, and could reasonably be applied to other similar type poles such as light standards. The FCC formula, however, would likely be inapplicable and inappropriate for attachments to most other types of structures, such as buildings, water tanks, and towers. For this same reason, the Department suggests that the term “county structure” on page 11, line 3, be deleted.

Again, the Department understands that the reach of this measure extends to many State agencies tasked with asset management, permitting, and other approvals, and thus defers to the affected agencies for further guidance on appropriate, balanced solutions.

Thank you for the opportunity to testify on this bill.



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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  
**HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**  
Wednesday, March 1, 2017  
2:00 PM  
State Capitol, Conference Room 329

in consideration of  
**HB 625, HD2**  
**RELATING TO INFRASTRUCTURE.**

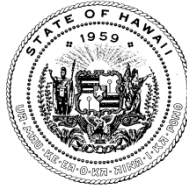
Chair McKelvey, Vice Chair Ichiyama, and Members of the House Committee on Consumer Protection and Commerce.

The Office of Planning (OP) strongly supports HB 625, HD2. 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.

HB 625, HD2 supports the development of critical infrastructure, establishing a siting process at State and county levels in order to facilitate the deployment of broadband technology by: amending Hawaii Revised Statutes (HRS) Chapter 27 to include a section describing the siting process of small wireless or wireline facilities and small wireless or wireline facilities networks at the State level; amends HRS Section 27-41.1 to include eleven (11) new definitions; and amends HRS Chapter 46 to add the county siting process of small wireless or wireline facilities and small wireless or wireline facility networks at the County levels.

OP finds that HB 625, HD2 addresses issues such as public safety, private ownership of structures, poles, and light standards, equitable processes for both wireless and wireline 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.



**LATE**

Testimony by:  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 1, 2017  
2:00 p.m.  
State Capitol, Room 329

**H.B. 625, H.D. 2  
RELATING TO INFRASTRUCTURE**

House Committee on Consumer Protection and Commerce

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The Department of Transportation (DOT) – Airports Division **supports** with comments HB 625, H.D. 2 which establishes the siting process of infrastructure for small wireless facilities and small wireless facilities networks on State-and-County owned land.

The DOT is concerned the bill requirement to allow small wireless facilities and small wireless facilities networks in all public rights-of-way could adversely impact the WiFi System Concession at major State airports. Under the WiFi System Concession, the Concessionaire provides WiFi service to travelers and others in terminal buildings at all major State Airports. As the users of the airports are from many countries, the Concessionaire is required to provide multilingual service.

The DOT is also concerned that the requirement to allow small wireless facilities and small wireless facilities networks on utility poles in the airports could interfere not only with the WiFi concession service but also other existing wireless communication within the airports. To assure that there is no such interference, the DOT requests that the bill be amended to exempt rights of ways and property within the boundaries of the State Airports from the requirement to allow small wireless facilities and instead allow the DOT to determine whether such facilities can be accommodated on airport property, and if they can to what extent, without interfering with existing wireless communication.

Thank you for the opportunity to provide testimony.

STATE OF HAWAII  
DEPARTMENT OF DEFENSE  
HAWAII EMERGENCY MANAGEMENT AGENCY



TESTIMONY ON HOUSE BILL 625, HD2  
A BILL RELATING TO INFRASTRUCTURE

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

BY

DAVID T. HAFNER  
Telecommunications Planner, Hawaii Emergency Management Agency

To the Honorable Angus McKelvey, Chair, and Members of the Committee:

My name is David Hafner, Telecommunications Planner, Hawaii Emergency Management Agency (HI-EMA). I am providing comment on H.B. No. 625, H.D. 2 which establishes provisions relating to the siting of small wireless facilities and small wireless facilities networks.

While HI-EMA supports the general provisions of this initiative we oppose certain provisions of the current bill due to concerns that the broad license to employ State and County owned communications towers and facilities will create potential interference issues with State and County Emergency Communications Systems.

Currently the State and Counties maintain large and sophisticated Public Safety Communications networks which support County Police, Fire, EMS, and Water Safety services and State Transportation, DLNR, Public Safety, and Emergency Management agencies. These are critical radio networks that protect life and property and first responders.

To support these life-safety networks, the State and Counties have constructed structures, antenna towers, and poles in key locations throughout the State. While many of these sites are not technically suitable for the envisioned small wireless networks, given their very central locations, the language in the current proposed legislation could result in demand for access to these sites potentially interfering and compromising Public Safety communications networks.

Specific areas of concern are: tower and structure availability; site security; and frequency interference of future services. The inventory of available tower and structure space is a critical element for both current and future operations. The space allocations on Public Safety network towers and structures is a carefully engineered and finite resource that should be preserved from external preemption. Tower and structure space that appears vacant today is typically designed with future requirements in mind. Unanticipated additional demands on these towers and structures will create significant challenges for the State and County network operators to ensure the tower and structure loading will not exceed mechanical, wind, and seismic design limits necessary to ensure that the facilities are able to withstand disaster conditions.

In addition, State and County towers and structures support a blend of County, State, and Federal operational, life-safety, and emergency management services. It is critical that these sites remain as secure as possible given the nature of the communications traffic they carry. It is important that access to these sites be strictly controlled and traffic minimized as much as possible to avoid both intentional and accidental damage to towers and structures and the vulnerable antennas hardware, power systems and transmission lines that are critical to the service.



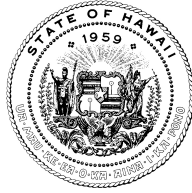
And finally, HI-EMA is concerned about the introduction of multiple co-located small wireless transmitters that may create frequency interference issues with the future nation-wide Public Safety Broadband networks ("FirstNet") which is designated by the FCC to occupy frequency bands adjacent to the frequency bands typically employed by small wireless networks. It is critical that the future broadband FirstNet system be isolated from any potential adjacent frequency channel interference that would degrade its signal performance. While there are established techniques to mitigate this type of frequency interference providing isolation it is a more prudent action to minimize the risk in advance of FirstNet deployment rather than during deployment.

The HI-EMA recommends that a clear exemption to the provisions of the legislation be provided for County and State Public Safety and Emergency Management towers, structures, and poles to ensure that these critical life-safety network are not subject to risks of interference from small wireless networks.

Thank you for the opportunity to provide this testimony **opposing the provisions of HB 625, HD2.**

David T. Hafner; [david.t.hafner@hawaii.gov](mailto:david.t.hafner@hawaii.gov); 808-733-4300

DAVID Y. IGE  
GOVERNOR



**LATE**

TODD NACAPUY  
CHIEF INFORMATION  
OFFICER

**STATE OF HAWAII**  
**OFFICE OF ENTERPRISE TECHNOLOGY SERVICES**

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Testimony of  
TODD NACAPUY  
Chief Information Officer, State of Hawai'i

Before the

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE  
Wednesday, March 1, 2017; 2:00 p.m.  
State Capitol, Conference Room 329

HOUSE BILL NO. 625, H.D. 2  
RELATING TO INFRASTRUCTURE

Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee:

I am Todd Nacapuy, State Chief Information Officer (CIO) and head of the Office of Enterprise Technology Services, providing **comments** on House Bill No. 625, H.D. 2, Relating to Infrastructure, which establishes the siting process of infrastructure for small wireless facilities and networks on State- and county-owned land.

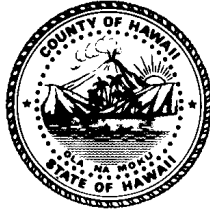
We strongly support the intent of the bill to deploy the next generation cellular broadband technologies on State and county properties to realize many economic, educational and social benefits. However, we have major concerns that locating commercial wireless sites on certain State and county properties, facilities and buildings can negatively impact critical public safety, emergency services, law enforcement, and disaster response communication systems.

Therefore, we request the bill allow for review processes where the State and counties assess whether commercial users can be accommodated on or near infrastructures that support statewide public safety communications without hampering, compromising or obstructing their operations, plans and structural integrity.

Based on best practices, government microwave sites, poles, towers and antennas designated for public safety missions presently do not allow collocating and/or nearby installation of commercial systems in order to:

- 1) minimize radio signal interference;
- 2) maintain secure physical and electronic access;
- 3) effectively manage limited onsite resources such as electrical power, space and cooling; and
- 4) preserve infrastructure disaster resiliency.

Thank you for this opportunity to offer comments that balance expanding commercial broadband with protecting our public safety.



**Harry Kim**  
*Mayor*

**Wil Okabe**  
*Managing Director*

**Frank J. De Marco, P.E.**  
*Director*

**Allan G. Simeon, P.E.**  
*Deputy Director*

**County of Hawai'i**  
**DEPARTMENT OF PUBLIC WORKS**  
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public\_works@hawaiicounty.gov

February 24, 2017

Representative Angus L. K. McKelvey, Chair  
And Members of the Committee on Consumer Protection & Commerce  
State Capitol

RE: TESTIMONY IN OPPOSITION OF HB 625, HD2, RELATING TO INFRASTRUCTURE

Dear Chair McKelvey, and members:

Thank you for this opportunity to testify against HB 625 (telecommunications) in its present form, but to urge further consideration.

HB 625, HD2 deals with the installation of telecommunication facilities on government-owned property. It is complicated, far reaching in scope, and raises 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 telecommunications companies to find common ground. We may not be in complete agreement with City and County, but we look forward to the outcome of those discussions.

A number of telecommunication bills have been heard this session. As stated in the committee report on HB 625 HD2, primary among the numerous concerns raised by these bills is that, if any of them were to pass in their present form, the State and counties could not adequately protect against the overburdening of their equipment, which could cause interference with the governments' existing equipment or system. We do not think that concern has been adequately addressed in HD2, and there are other issues as well.

The bills have, of course, varying provisions. Some raise concerns because they say actions relating to the installation, construction, development, or improvement of broadband networks

will be exempt from County permitting requirements. Some 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 notice of this intent on the Department of Commerce and Consumer Affairs' website. Some 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.

Separately, coerced co-location could interfere with a 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 a 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. Some 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.

One version 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.

Limiting collocation charges may not 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 draft.

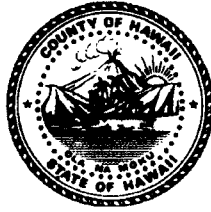
At an absolute minimum, we would ask that any bill that passes provide that an entity proposing the installation, construction, development, or improvement of broadband networks must file a written request to do so with the State and affected county, and allow the counties to reject an application if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

Please assure that HB 625, HD2 does 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,

Frank J. De Marco, P.E.  
Director

**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 27, 2017

Representative Angus L.K. McKelvey  
House Committee on Consumer Protection & Commerce  
Hawai'i State Capitol  
Honolulu, HI 96813

Dear Chair McKelvey and Members:

**RE: HB625, HD2**  
**Relating to Infrastructure**

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The bills have, of course, varying provisions. Some raise concerns because they say actions relating to the installation, construction, development, or improvement of broadband networks will be exempt from County permitting requirements. Some 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 notice of this intent on the Department of Commerce and Consumer Affairs' website. Some 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.

Separately, coerced co-location could interfere with a 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 a 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. Some 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.

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Angus L.K. McKelvey  
Consumer Protection & Commerce Committee  
February 27, 2017

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

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 HB 625, HD2 does 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,

A handwritten signature in black ink, appearing to read "Harry Kim", with a stylized flourish extending to the right.

Harry Kim  
Mayor

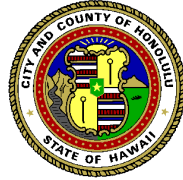


**LATE**

**OFFICE OF THE MAYOR  
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



ROY K. AMEMIYA, JR.  
MANAGING DIRECTOR

GEORGETTE T. DEEMER  
DEPUTY MANAGING DIRECTOR

**CITY AND COUNTY OF HONOLULU  
BEFORE THE COMMITTEE ON CONSUMER  
PROTECTION AND COMMERCE**

WEDNESDAY, MARCH 1, 2017; 2:00 PM

**TO:** THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR  
THE HONORABLE LINDA E. ICHIYAMA, VICE CHAIR  
AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION  
AND COMMERCE

**FROM:** ROY K. AMEMIYA, JR., MANAGING DIRECTOR  
CITY AND COUNTY OF HONOLULU

**SUBJECT:** COMMENTS ON HB625, HD2

The City and County of Honolulu (City) supports the intent of HB625, HD2, which requires the State and the counties to permit the colocation of small wireless or wireline facilities to State- and county-owned structures, including light poles. The City recognizes the need for the installation of small cell infrastructure to facilitate the deployment of 4G and 5G technology but has concerns with this measure as drafted.

The City must emphasize that the installation of small cell infrastructure should not adversely impact or compromise public safety. Thus, it is important to ensure that existing City utility poles (poles) are able to bear the weight of additional broadband equipment, particularly because the added equipment was not likely included in the original design, sizing, and selection of the poles. It is equally important to ensure that the installed equipment does not pose a hazard or obstruction to pedestrians, bicyclists, motorists, and people maintaining or repairing other pole mounted equipment, components, or lines.

Other issues of particular concern to the City include the cost of ensuring that the equipment installed on the City's poles are safe and there are no adverse visual impacts resulting from the installation of the small cell equipment, especially in our most historic and picturesque areas.

Accordingly, the City submits its specific concerns with this measure:

1. Page 7, lines 5 to 13, which require a county to permit the collocation of small wireless or wireline facilities. The City has serious concerns about being mandated by law to permit the collocation of such facilities. Instead, the City recommends changing "shall" to "may" so that the language reads: "The county may permit, subject only to clear and objective building permit standards..."
2. Page 8, lines 12-17, which state "Wireless providers shall have the right to place small wireless or wireline facilities on county-owned poles, county structures and light standards; provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies." The City does not believe that a wireless provider should have a right to place its equipment on county-owned property. Each county should have discretion to allow the placement of the equipment on its property to ensure such equipment does not compromise public health and safety and affect county operations.

This language does not ensure that a county has sufficient room to deny the placement of equipment on its property due to safety concerns, and/or interference with present or future operations, particularly in the event of an emergency or disaster. This language also does not specify that a wireless provider should be limited to using a specified portion of a county-owned pole's load capacity. Wireless providers should not be able to take up all of the capacity on county-owned poles such that the county is unable to use its own pole for present and future deployment of new technology. For example, the City is in the process of converting its street lights to utilize LED technology and new controls systems. This requires the City to install new equipment on its existing poles. If a wireless provider installs so much equipment that the pole is at its maximum load carrying capacity, the City would be precluded from installing the new LED lights and related equipment.

3. Page 8, lines 17-21, which allow a county to "require building permits or other non-discretionary permits for the collocation of small wireless or wireline facilities and small wireless or wireline facilities networks, provided that the permits are of general applicability." The City currently does not require a building permit to install equipment in its right of way. The application of a non-discretionary permit of general applicability must involve details of each proposed pole installation due to the unique site conditions at each pole location. A drawing depicting a typical installation with structural calculations for a typical pole will not suffice to ensure each equipment installation on an existing pole provides the necessary measure of protecting public health and safety.

4. Page 9, lines 9 to 15 state "An application may be denied if it does not meet applicable laws or rules regarding 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 City does not currently have a building code that governs installations in the public right of way. Thus, this language does not have much effect.

5. Page 9, line 17 to page 10, line 6: this section requires a county to consolidate permits for 25 individual pieces of wireless or wireline facilities of a substantially similar design upon request by the applicant. While the City supports consolidation of permits to allow the approval process to be streamlined, the language here does not actually allow for that. The characteristics and site conditions of individual poles require evaluation and consideration. If the twenty five poles are located all over the island, this would actually lengthen the amount of time necessary to inspect the poles by existing staff. Instead, the City recommends batching be done by location. Twenty five poles within one or two square miles would be easier to inspect than twenty five poles that may be physically located far apart.

6. Page 10, line 12 to page 11, line 12. The rate formula adopted by the Federal Communications Commission in 47 CFR 1.1409(e) is very complex. It requires lots of information for individual poles which the City may not have. For example, the formula requires that the City provide information on a pole's accumulated depreciation, accumulated deferred income taxes, and net cost of a bare pole. If a developer constructed a pole as part of a residential development, the City would not have any information relating to the pole's cost of construction. The City requests that this language be amended to include a rate formula that is easier to apply.

7. Page 12, line 19 to page 13, line 2, which defines "general applicability" as "laws, regulations, or processes that apply to objective requirements to all persons or services in a nondiscriminatory manner and do not apply exclusively to small wireless or wireline facilities. The City does not believe that this definition is appropriate. Instead, the definition should refer to laws, regulations, or processes that do not favor one wireless or wireline provider over the others. Because wireless and wireline facilities may interfere with the provision of City services in ways that construction or installation of other equipment may not, this definition as currently drafted is not appropriate.

8. Page 13, line 13 to page 14, line 15 and page 17, line 13 to page 18, line 15. While the cumulative volume limitations are necessary and appreciated, this measure does not contain provisions requiring a wireless or wireline provider to make any attempt to minimize visual blight caused by the installation of the equipment, nor does it give a county the authority to regulate and prevent "Franken-poles." Other jurisdictions require the wireless or wireline providers to integrate the equipment into the poles or otherwise shroud the equipment so that visual blight is minimized. The City strongly recommends that such language be added.

The City has been working collaboratively with the industry and other interested parties. Our discussions are ongoing and we look forward to continuing to work together on language that is acceptable to all parties. Thank you for your consideration of these comments.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committee on Consumer Protection & Commerce  
Wednesday, March 1, 2017 at 2:00 P.M.  
Conference Room 329, State Capitol**

**RE: HOUSE BILL 625 HD2 RELATING TO INFRASTRUCTURE**

Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of HB 625 HD2, which establishes the siting process of infrastructure for small wireless or wireline facilities and small wireless or wireline facilities networks on state- and county-owned land.

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.



February 27, 2017

Honorable Angus L.K. McKelvey  
Chair, House Committee on Consumer Protection & Commerce  
Hawaii State Capitol  
Room 320  
Honolulu, HI 96813

Honorable Linda Ichiyama  
Vice Chair, House Committee on Consumer Protection & Commerce  
Hawaii State Capitol  
Room 327  
Honolulu, HI 96813

**RE: Support House Bill 625 HD2 – Small Wireless Facility Deployment**

Dear Chair McKelvey and Vice Chair Ichiyama:

On behalf of CTIA, the trade association for the wireless communications industry, I am writing in support of House Bill 625 HD2, 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%.<sup>1</sup> 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.<sup>2,3</sup> 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 HD2 is a needed mechanism to solve today's problem 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 will be required for higher-frequency 5G spectrum. The benefits provided by 5G are astounding. 5G networks will provide increased capacity to accommodate growing

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<sup>1</sup> U.S. Census, Population Estimates, at <http://www.census.gov/data/tables/2016/demo/popest/state-total.html>, last accessed 2/25/2017.

<sup>2</sup> 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 2/25/2017.

<sup>3</sup> Broadband Now, Broadband Internet in Hawaii, at: <http://broadbandnow.com/hawaii>, last accessed 2/25/2017.

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.

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.<sup>4</sup> 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.<sup>5</sup> That's the promise of the next-generation of wireless technology. America needs to lead in its deployment.

House Bill 625 HD2 helps to remove barriers to efficient deployment of small cell wireless infrastructure. House Bill 625 HD2 allows providers the opportunity to responsibly deploy small cells by having reasonable access to existing state and county infrastructure within and outside of the public rights-of-way (ROW). Such access will help to meet customer demands for faster data speeds, stronger in-building signals and an overall improved customer experience. House Bill 625 HD2 makes small cells on existing infrastructure a "permitted use" and not subject to discretionary review like larger "macro" towers. The legislation also allows for consolidation of substantially similar small cell applications, to minimize administrative impacts while improving efficiency.

Further, House Bill 625 HD2 seeks to impose reasonable rates, terms and conditions for access to infrastructure in and outside of the ROW. Today, county or state pole attachment rights may come with exorbitant prices that curb investment in wireless infrastructure. House Bill 625 HD2 remedies this situation and provides "wireless providers with a fair and predictable process for the deployment of small wireless facilities," as stated in Section 1 of the bill.

Finally, it is important to note that House Bill 625 HD2 places no limitations on a locality's ability to deny a permit based on building, safety or electrical codes or standards. There is no removal of the locality's jurisdiction in this regard.

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.<sup>6</sup> 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

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<sup>4</sup> "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.

<sup>5</sup> *Ibid.*

<sup>6</sup> CTIA's Wireless Industry Summary Report, Year-End 2015 Results, 2015, <http://www.ctia.org/industry-data/ctia-annual-wireless-industry-survey>, last accessed 2/25/2017.

efficiently spent as capital tends to flow to places that are ready for investment. House Bill 625 HD2 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 HD2 and we strongly 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



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.org/press-releases/5g-powered-smart-city-solutions-will-produce-160-billion-in-benefits-and-savings-for-americans-by-2030>

**LATE**

HOUSE OF REPRESENTATIVES

**H.B. NO. 625**  
H.D. 2

TWENTY-NINTH LEGISLATURE, 2017  
STATE OF HAWAII

## **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 wireless and wireline providers with a fair and predictable process for the deployment of small wireless ~~or wireline~~ facilities, the legislature finds that it is important to regulate the deployment of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks.

The purpose of this Act is to facilitate the deployment of high-speed broadband infrastructure, including small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks in a way that encourages new technology but avoids interference with its use by existing public utilities and cable communications providers and that ensures a level-level playing field for competitive communications service providers. As to utility poles owned jointly by the State or county and private investor-owned utilities, this Act does not relieve wireless infrastructure providers from existing requirements attached to private investor-owned utility poles.

SECTION 2. Act 151, Session Laws of Hawaii 2011, is repealed.

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 or wireline facilities and small wireless or wireline facilities networks.~~ The State shall permit, subject ~~only~~ to clear and objective building permit standards, the collocation of small wireless ~~or wireline~~ facilities or small wireless ~~or wireline~~ facilities networks on state structures, state utility poles, and state light standards, provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies, for the deployment of high speed wireless ~~or wireline,~~ or wireless broadband infrastructure, ~~or wireline broadband infrastructure,~~ and 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 backhaul facilities, or to attach coaxial or fiber-optic cable between poles, as follows:

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

(A) All public rights-of-way and property;

(B) All land designated as rural or agriculture in accordance with chapter 205; and

(C) All land designated as urban;

provided that, for the purposes of this paragraph, permissible uses within the agricultural district conform to the definition of “wireless communication antenna” in accordance with section 205-4.5(a)(18);

(2) Small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks may be processed for a special or conditional use permit when the small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks are located on land designated as conservation, in accordance with chapter 205;

(3) Wireless ~~and wireline~~ providers shall have the right to place small wireless facilities on state utility poles, state structures and on light standards. The State may require building permits or other non-discretionary permits for the collocation of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks; provided that the permits 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 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; and

(C) An applicant for a small wireless ~~or wireline~~ facilities network involving no more than twenty-five individual small wireless ~~or wireline~~ facilities of a substantially similar design may request and shall be permitted to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of the small wireless ~~or wireline~~ facilities network instead of filing separate applications for each individual small wireless ~~or wireline~~ facility;

(4) A wireless ~~or wireline~~ provider may collocate small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks on state structures, state utility poles, and state light standards, provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies, within the state's designated space, located within the land identified in paragraph (1)(A), (B), and (C), subject to rates, terms, and conditions ~~if such rates, terms and conditions are required by the state for similar types of commercial use~~. The annual recurring rate to collocate a small wireless or wireline facility or small wireless or wireline facility network on a state structure, state utility pole, or state light standard within the state's designated space shall not exceed the rate produced by applying the formula adopted by the Federal Communications Commission for ~~telecommunications~~ pole attachments ~~in 47 C.F.R. §1.1409(e)(2) pursuant to 47 U.S.C. § 224(d)~~; provided that, if the Federal Communications Commission adopts a rate formula for small wireless ~~or wireline~~ facility or small wireless ~~or wireline~~ facility network attachments, that rate formula shall apply; and

(5) The State shall not require a ~~permit for a~~ wireless or wireline provider or wireless or wireline provider's licensed contractor ~~to apply for or obtain a permit under this section for (i) routine maintenance; (ii) the to maintain, repair, or replacement of~~ the providers' small wireless or wireline facilities with facilities that are substantially the same, or smaller, in size, weight, and

height as the existing facilities, except as necessary to protect the public safety.?”; or (iii) the installation, placement, maintenance, operation or replacement of micro wireless facilities that are suspended on messenger cables that are strung between existing utility poles in compliance with national safety codes.

(6) Except as provided in this chapter or as required by section 440G-8 or under federal law, the authority shall not adopt or enforce any regulations on the placement or operation of communications facilities in the right-of-way where the entity is already authorized by a franchise or other authorization to operate throughout the right-of-way, and shall not regulate communications services or impose or collect fees on communications services unless expressly required by state or federal statute.”

SECTION 43. 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 ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks.** The county shall permit, subject ~~only~~ to clear and objective building permit standards, the collocation of small wireless ~~or wireline~~ facilities or small wireless ~~or wireline~~ facilities networks on county structures, county utility poles, and county light standards; provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies, for the deployment of high speed broadband infrastructure, and 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 backhaul facilities, or to attach coaxial or fiber-optic cable between poles, as follows:

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

(A) All public rights-of-way and property;

(B) All land designated as rural or agriculture in accordance with chapter 205; and

(C) All land designated as urban;

provided that, for the purposes of this paragraph, permissible uses within the agricultural district conforms to the definition of “wireless communication antenna” in accordance with section 205-4.5(a)(18);



(2) Small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks may be processed for a special or conditional use permit when the small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks are located on land designated as conservation, in accordance with chapter 205;

(3) Wireless providers shall have the right to place small wireless ~~or wireline~~ facilities on county-owned poles, county structures and light standards; provided that such structures, poles, and light standards not the exclusive ownership of the Hawaiian Electric Companies. The county may require building permits or other non-discretionary permits for the collocation of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks, provided that the permits 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 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 ~~or wireline~~ facilities network involving no more than twenty-five individual small wireless ~~or wireline~~ facilities of a substantially similar design may request and shall be permitted to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of the small wireless ~~or wireline~~ facilities network instead of filing separate applications for each individual small wireless ~~or wireline~~ facility; and

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

(4) A wireless ~~or wireline~~ provider may collocate small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks on county structures, county utility poles and county light standards; provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies, within the county's designated space

and located within the land identified in paragraph (1)(A), (B), and (C), subject to rates, terms, and conditions. The annual recurring rate to collocate a small wireless or wireline facility or small wireless or wireline facility network on a county structure, county utility pole, or county light standard within the county’s designated space shall not exceed the rate produced by applying the formula adopted by the Federal Communications Commission for ~~telecommunications~~ pole attachments in 47 C.F.R. §1.1409(e)(2)47 U.S.C. § 224(d); provided that, if the Federal Communications Commission adopts a rate formula for small wireless or wireline facility or small wireless or wireline facility network attachments, that rate formula shall apply; and

(5) The counties shall not require a ~~permit for a~~ wireless or wireline provider or wireless or wireline provider’s licensed contractor to ~~apply for or obtain a permit under this section for routine maintenance; (ii) the repair, or~~ replacement of the providers’ small wireless or wireline facilities and small wireless or wireline facilities networks with facilities that are substantially the same, or smaller, in size, weight, and height as the existing facilities, except as necessary to protect public safety; or (iii) ) the installation, placement, maintenance, operation or replacement of micro wireless facilities that are suspended on messenger cables that are strung between existing utility poles in compliance with national safety codes.”

(6) Except as provided in this chapter or as required by section 440G-8 or under federal law, the authority shall not adopt or enforce any regulations on the placement or operation of communications facilities in the right-of-way where the entity is already authorized by a franchise or other authorization to operate throughout the right-of-way, and shall not regulate communications services or impose or collect fees on communications services unless expressly required by state or federal statute

SECTION 455. Section 27-41.1, Hawaii Revised Statutes, is amended by adding ~~eleven~~ ~~fourteen~~ new definitions to be appropriately inserted and to read as follows:

““Collocation” means the installation, mounting, maintenance, modification, operation, or replacement of wireless ~~or wireline, or wireless broadband service equipment facilities, or wireline broadband service~~ on a tower, utility pole, light standard, ~~building, or other existing structure existing on the date of this act~~ for the purpose of transmitting or receiving radio frequency signals for communications purposes. ~~For purposes of this definition, “wireless or wireless broadband service equipment”:~~



~~(1) Includes small wireless or wireline facilities, 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 the structure or improvements on, under, or within which the equipment is collocated.~~

“General applicability” refers to laws, regulations, or processes that apply to objective requirements to all persons or services in a nondiscriminatory manner and do not apply exclusively to small wireless or wireline facilities.

“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 24 inches long, 15 inches in width, 12 inches in height and that has an exterior antenna, if any, no longer than 11 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 or wireline facilities” means wireless or wireline facilities that meet the following qualifications:

(1) If applicable, 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 or wireline 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 but not limited to buildings and water tanks, that can support fewer than three providers;

(B) Twenty-one cubic feet for collocations on all pole structures, including but not limited to 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 ~~or wireline~~ facilities network” means a group of interrelated small wireless ~~or wireline~~ facilities designed to deliver wireless ~~or wireline~~ communications service, but does not include wires or cables used for backhaul or coaxial or fiber-optic cable between utility poles, or that is otherwise not immediately adjacent to and directly associated with a particular antenna.

“Telecommunications service” or “telecommunications” shall have the same meaning as defined 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 communications service” means any services, using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided using wireless facilities. The term shall not include wireline backhaul service.

“Wireless facilities” means the set of equipment and network components, including, but not limited to, antennas, accessory equipment, transmitters, receivers, power supplies, and other associated equipment necessary to provide wireless communications service, except that the term shall not include (i) the structure or improvements on, under, or within which the equipment is collocated; (ii) wireline backhaul facilities; or (iii) coaxial or fiber-optic cable between utility poles, or that is otherwise not immediately adjacent to and 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 wireless telecommunications service provider as defined in section 269-16.93; ~~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; or

(4) A provider of wireless communications service.

“Wireline” means wire or wires used for transmission between or among points specified by a user, of information of the user’s choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium.”

“Wireline backhaul” means the transport of communications data or other electronic information by wire from wireless facilities to a network

SECTION 56. Section 46-15.6, Hawaii Revised Statutes, is amended by adding ~~nine~~ fourteen new definitions to be appropriately inserted and to read as follows:

““Collocation” means the installation, mounting, maintenance, modification, operation, or replacement of wireless ~~or wireline or wireless broadband service equipment~~ facilities on a tower, utility pole, light standard, ~~building,~~ or other ~~existing~~ structure ~~existing as of the date of this act~~ for the purpose of transmitting or receiving radio frequency signals for communications purposes. ~~For purposes of this definition, “wireless or wireline”, or “wireless broadband service equipment”, or “wireline broadband service equipment”:~~

~~(1) Includes small wireless or wireline facilities, 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 the structure or improvements on, under, or within which the equipment is collocated.~~

“General applicability” refers to laws, regulations, or processes that apply to objective requirements to all persons or services in a nondiscriminatory manner and do not apply exclusively to small wireless ~~or wireline~~ facilities.

“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 24 inches long, 15 inches in width, 12 inches in height and that has an exterior antenna, if any, no longer than 11 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 ~~or wireline~~ facilities” means wireless ~~or wireline~~ facilities 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 ~~or wireline~~ 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 but not limited to buildings and water tanks, that can support fewer than three providers;

(B) Twenty-one cubic feet for collocations on all pole structures, including but not limited to 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; and

~~(3) Part of a small wireless or wireline facilities network.~~

“Small wireless ~~or wireline~~ facilities network” means a group of interrelated small wireless or wireline facilities designed to deliver wireless ~~or wireline~~ communications service, but does not include wires or cables used for backhaul or coaxial or fiber-optic cable between utility poles, or that is otherwise not immediately adjacent to and 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 communications service” means any services, using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided using wireless facilities. The term shall not include backhaul service.

“Wireless facilities” means the set of equipment and network components, including, but not limited to, antennas, accessory equipment, transmitters, receivers, power supplies, and other

associated equipment necessary to provide wireless communications service, except that the term shall not include (i) the structure or improvements on, under, or within which the equipment is collocated; (ii) wireline backhaul facilities; or (iii) coaxial or fiber-optic cable between utility poles, or that is otherwise not immediately adjacent to and 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 wireless telecommunications service provider as defined in section 269-16.93; ~~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.;

(4) A provider of wireless communications service.

“Wireline” means wire or wires used for transmission between or among points specified by a user, of information of the user’s choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium.

“Wireline backhaul” means the transport of communications data or other electronic information by wire from wireless facilities to a network.”

SECTION ~~67~~. 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 205-4.5(a)(18), as permissible uses.”

SECTION 78. 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 ~~or wireless~~ facilities; 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 ~~or wireline~~ 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 ~~89~~. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~910~~. This Act shall take effect on July 1, 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 Land

Description:

Establishes the siting process of infrastructure for small wireless or wireline facilities and small wireless or wireline facilities networks on state- and county-owned land. (HB625 HD2)

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

**LATE**

**TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE**

**TESTIMONY REGARDING  
HB 625 HD2 RELATING TO INFRASTRUCTURE**

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

**March 1, 2017**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR, AND MEMBERS OF THE COMMITTEE:

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 HD2 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 HD2 would do nothing to spur wireless broadband deployment, which are 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. 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 expedited process contemplated by this legislation does not apply only to the antennas themselves. The definition of “small wireless facilities” in HB 625 HD2, 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.

This bill also gives wireless providers the right to place or co-locate their wireless or wireline facilities on State and county utility poles, structures and light standards (including street light poles), bypassing the procedures and conditions currently imposed on cable providers.

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.

HB 625 HD2 makes significant changes to the current process for public right-of-way access and creates an uneven playing field. We ask the Committee 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. 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.

However, in the event the Committee decides to pass this measure, we ask that the Committee consider and incorporate the amendments included in the attached proposed amendments to HB 625 HD2. The attached draft contains Charter’s proposed amendments, which seek to address fundamental concerns of disparate treatment among providers of like services, as described in

greater detail above. The attached draft also repeals Act 151 as it is unnecessary and is somewhat inconsistent with portions of HRS Chapters 27 and 46.

**LATE**

**HB 625 HD2**

**RELATING TO INFRASTRUCTURE**

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

**March 1, 2017**

Chair McKelvey and members of the Committee:

Hawaiian Telcom supports the intent of HB 625 HD2 to promote the deployment of advanced broadband services throughout the state.

While we support the intent of this measure, we believe that benefits afforded to small wireless facilities under HB 625 HD2 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 HD2 be amended to also include “wireline” services and facilities. In addition, HB 625 HD2 should be amended to limit the scope of this measure to solely-owned state or county utility poles to address the concerns raised by Hawaiian Electric and other joint pole owners.

As the late Senator Daniel K. Inouye proclaimed at a hearing on the importance of increasing Hawaii’s broadband capabilities:

*“Broadband matters because broadband communications have become the great economic engine of our time. Broadband deployment drives opportunities for business, education, and healthcare...Add to this hundreds of millions of dollars in savings through e-government and telemedicine initiatives and untold riches we can reap by tapping the genius of web-based entrepreneurs in every corner of this country. The case for better broadband is clear.”*

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.





**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 28, 2017 11:07 AM  
**To:** CPCtestimony  
**Cc:** oeqchawaii@doh.hawaii.gov  
**Subject:** \*Submitted testimony for HB625 on Mar 1, 2017 14:00PM\*

**HB625**

Submitted on: 2/28/2017  
Testimony for CPC on Mar 1, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Glenn	OEQC	Support	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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**LATE**

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

March 1, 2017

Honorable Angus McKelvey  
Vice Chair, House Committee on Consumer  
Protection and Commerce  
Hawaii State Capitol, Room 320  
Honolulu, HI 96813

Honorable Linda Ichiyama  
Vice Chair, House Committee on Consumer  
Protection and Commerce  
Hawaii State Capitol, Room 327  
Honolulu, HI 96813

**RE: HOUSE BILL 625 HD2 – Small Wireless Facility Deployment - SUPPORT**

Dear Chair McKelvey, Vice Chair Ichiyama and Committee Members:

On behalf of Verizon, I submit this testimony in STRONG SUPPORT of House Bill 625 HD2 and offer a set of amendments as attached. This legislation seeks to create the legal framework necessary to expedite the deployment of small wireless facilities in order to meet the current demands of mobile users and while also creating the infrastructure to deploy 5G technologies and next generation wireless networks.

**The Problem HB 625 HD2 Addresses**

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. The end result is slower broadband speeds, shrinking cellular footprints and increased coverage problems evidenced by an increase in dropped calls. Wireless infrastructure providers are addressing these capacity issues by deploying small wireless facilities, in addition to using existing macro sites.<sup>1</sup>

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<sup>1</sup>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 aerially 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.

Because small wireless facilities are relatively new, most county or state existing legal frameworks require obtaining the same time-consuming discretionary permits as with a macro tower installation. HB 625 HD2 would address this problem by creating a legal framework that streamlines the permitting process for small wireless facilities and provides for access to government utility and light poles. This legislation preserves state and local government authority to deny an application that does not meet building, electrical, health, safety and public right of way use permit requirements. Finally, HB 625 HD2 fairly compensates the state and local government through reasonable and nondiscriminatory cost-based fees consistent with federal pricing standards. Such policy encourages wireless providers to invest in wireless broadband technology in order to bring its benefits to the people of Hawaii.

### **The 5G Benefits of HB 625 HD2**

The speedy deployment of wireless service and broadband through small wireless facilities is critical to meet current mobile user's data demands as well as the deployment of next generation wireless network: 5G. This new 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, 4G, 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 HD2 seeks to deliver a state policy framework that strikes the right balance in encouraging ongoing investment in wireless broadband data 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 support of HB 625, HD2, Verizon Wireless believes that certain amendments in this version of the bill create ambiguities that could discourage investment and reduce the effectiveness of the bill. Therefore Verizon Wireless recommends that HB 625 HD2 be amended as proposed in the attached HD3, as detailed further below.

### **Requested Amendments**

Verizon understands that Hawaiian Electric Company (HECO) has some concerns that the bill may impact its and the joint pole committee processes and offered amendments in the prior committee that resulted in new language found in HB 625 HD 2. Verizon believes the language in HD 2 is confusing, does not specifically address HECO's concern and could be construed in a way that is inconsistent with federally-provided rights to access electric and incumbent telephone utility poles. Therefore, Verizon recommends deleting the confusing language and instead add this language, as shown in the attached redline of HB 625 HD 2:

Nothing in this Act shall be construed to (i) provide state-based access rights to poles or structures solely-owned by an investor-owned electric utility or telephone utility or (ii) impair access rights provided under 47 USC 224 or its implementing regulations, or (iii) or to relieve a wireless provider from complying with existing lawful joint pole committee processes for attaching to jointly-owned poles, including compliance with the applicable provisions of H.A.R. 6-73.

In addition, amendments in HD 2 add the words “or wireline” throughout the bill. This too is confusing and is at odds with the specific purpose of this bill, which is to update outdated processes used for macro towers when applications for small wireless facilities are submitted. This bill does not attempt to solve a wireline problem in the law because there is no wireline problem that needs to be addressed. Therefore, Verizon’s redline recommends deleting this unnecessary language that confuses the purpose of the bill.

Mahalo for your consideration.

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# 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 wireless and wireline providers with a fair and predictable process for the deployment of small wireless ~~or wireline~~ facilities, the legislature finds that it is important to regulate the deployment of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks.

The purpose of this Act is to facilitate the deployment of high-speed broadband infrastructure, including small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks. As to utility poles owned jointly by the State or county and private investor-owned utilities, this Act does not relieve wireless infrastructure providers from existing requirements attached to private investor-owned utility poles.

SECTION 2. 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 ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks.** The State shall permit, as a permitted use not subject to zoning review but may be subject only to clear and objective building permit standards, the collocation of small wireless ~~or wireline~~ facilities or small wireless ~~or wireline~~ facilities networks on state structures, state utility poles, and state light standards, ~~provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies,~~ for the deployment of high speed wireless ~~or wireline~~, or wireless broadband infrastructure, ~~or wireline broadband infrastructure~~ as follows:

- (1) Small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks shall not be

subject to the standards of a special or conditional use permit in:

- (A) All public rights-of-way and property;
- (B) All land designated as rural or agriculture in accordance with chapter 205; and
- (C) All land designated as urban;

provided that, for the purposes of this paragraph, permissible uses within the agricultural district conform to the definition of "wireless communication antenna" in accordance with section 205-4.5(a)(18);

(2) Small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks may be processed for a special or conditional use permit when the small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks are located on land designated as conservation, in accordance with chapter 205;

(3) Wireless ~~and wireline~~ providers shall have the right to place small wireless facilities on state utility poles, state structures and on light standards. The State may require building permits or other non-discretionary permits for the collocation of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks; provided that the

permits 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 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; and

(C) An applicant for a small wireless ~~or wireline~~ facilities network involving no more than twenty-five individual small wireless ~~or wireline~~ facilities of a substantially similar design may request and shall be permitted to file a consolidated application and receive a single



permit for the installation, construction, maintenance, and repair of the small wireless ~~or wireline~~ facilities network instead of filing separate applications for each individual small wireless ~~or wireline~~ facility;

- (4) A wireless ~~or wireline~~ provider may collocate small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks on state structures, state utility poles, and state light standards, ~~provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies,~~ within the state's designated space, located within the land identified in paragraph (1)(A), (B), and (C), subject to rates, terms, and conditions. The annual recurring rate to collocate a small wireless ~~or wireline~~ facility or small wireless ~~or wireline~~ facility network on a state structure, state utility pole, or state light standard within the state's designated space shall not exceed the rate produced by applying the formula adopted by the Federal Communications Commission for telecommunications pole attachments in 47 C.F.R. §1.1409(e)(2); provided that, if the Federal Communications Commission adopts a rate formula for

small wireless ~~or wireline~~ facility or small wireless ~~or wireline~~ facility network attachments, that rate formula shall apply; and

(5) The State shall not require a permit for a wireless ~~or wireline~~ provider or wireless ~~or wireline~~ provider's licensed contractor to maintain, repair, or replace the providers' small wireless ~~or wireline~~ facilities with facilities that are substantially the same, or smaller, in size, weight, and height as the existing facilities, except as necessary to protect the public safety."

(6) *Nothing in this Act shall be construed to (i) provide state-based access rights to poles or structures solely-owned by an investor-owned electric utility or telephone utility or (ii) impair access rights provided under 47 USC 224 or its implementing regulations, or (iii) or to relieve a wireless provider from complying with existing lawful joint pole committee processes for attaching to jointly-owned poles, including compliance with the applicable provisions of H.A.R. 6-73.*

SECTION 3. 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 ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks.** The county shall permit, as a permitted use not subject to zoning review but subject only to clear and objective building permit

standards, the collocation of small wireless ~~or wireline~~ facilities or small wireless ~~or wireline~~ facilities networks on county structures, county utility poles, and county light standards; ~~provided that such structures, poles, and light standards are not the exclusive ownership of the Hawaiian Electric Companies,~~ for the deployment of high speed broadband infrastructure as follows:

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

(A) All public rights-of-way and property;

(B) All land designated as rural or agriculture in accordance with chapter 205; and

(C) All land designated as urban;

provided that, for the purposes of this paragraph, permissible uses within the agricultural district conforms to the definition of "wireless communication antenna" in accordance with section 205-4.5(a)(18);

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

on land designated as conservation, in accordance with chapter 205;

(3) Wireless providers shall have the right to place small wireless ~~or wireline~~ facilities on county-owned poles, county structures and light standards; ~~provided that such structures, poles, and light standards not the exclusive ownership of the Hawaiian Electric Companies.~~ The county may require building permits or other non-discretionary permits for the collocation of small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks, provided that the permits 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 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 ~~or wireline~~ facilities network involving no more than twenty-five individual small wireless ~~or wireline~~ facilities of a substantially similar design may request and shall be permitted to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of the small wireless ~~or wireline~~ facilities network instead of filing separate applications for each individual small wireless ~~or wireline~~ facility; and

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

(4) A wireless ~~or wireline~~ provider may collocate small wireless ~~or wireline~~ facilities and small wireless ~~or wireline~~ facilities networks on county structures,

county utility poles and county light standards;  
provided that such structures, poles, and light  
standards are not the exclusive ownership of the  
Hawaiian Electric Companies, within the county's  
designated space and located within the land  
identified in paragraph (1)(A), (B), and (C), subject  
to rates, terms, and conditions. The annual recurring  
rate to collocate a small wireless ~~or wireline~~  
facility or small wireless ~~or wireline~~ facility  
network on a county structure, county utility pole, or  
county light standard within the county's designated  
space shall not exceed the rate produced by applying  
the formula adopted by the Federal Communications  
Commission for telecommunications pole attachments in  
47 C.F.R. §1.1409(e)(2); provided that, if the Federal  
Communications Commission adopts a rate formula for  
small wireless ~~or wireline~~ facility or small wireless  
~~or wireline~~ facility network attachments, that rate  
formula shall apply; and

- (5) The counties shall not require a permit for a wireless  
~~or wireline~~ provider or wireless ~~or wireline~~  
provider's licensed contractor to maintain, repair, or  
replace the providers' small wireless ~~or wireline~~  
facilities and small wireless ~~or wireline~~ facilities

networks with facilities that are substantially the same, or smaller, in size, weight, and height as the existing facilities, except as necessary to protect public safety."

*(6) Nothing in this Act shall be construed to (i) provide state-based access rights to poles or structures solely-owned by an investor-owned electric utility or telephone utility or (ii) impair access rights provided under 47 USC 224 or its implementing regulations, or (iii) or to relieve a wireless provider from complying with existing lawful joint pole committee processes for attaching to jointly-owned poles, including compliance with the applicable provisions of H.A.R. 6-73.*

SECTION 4. Section 27-41.1, Hawaii Revised Statutes, is amended by adding eleven new definitions to be appropriately inserted and to read as follows:

"Collocation" means the installation, mounting, maintenance, modification, operation, or replacement of wireless ~~or wireline~~, or wireless broadband service equipment, ~~or wireline~~ broadband service on a tower, utility pole, light standard, building, or other existing structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. For purposes of this definition, "wireless or wireless broadband service equipment":

(1) Includes small wireless ~~or wireline~~ facilities, 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 the structure or improvements on, under, or within which the equipment is collocated.

"General applicability" refers to laws, regulations, or processes that apply to objective requirements to all persons or services in a nondiscriminatory manner and do not apply exclusively to small wireless ~~or wireline~~ facilities.

"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.

"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 ~~or wireline~~ facilities" means wireless ~~or wireline~~ facilities that meet the following qualifications:

- (1) If applicable, 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 ~~or wireline~~ 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 but not limited to buildings and water tanks, that can support fewer than three providers;

(B) Twenty-one cubic feet for collocations on all pole structures, including but not limited to 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 ~~or wireline~~ facilities network" means a group of interrelated small wireless ~~or wireline~~ facilities designed to deliver wireless ~~or wireline~~ communications service.

"Telecommunications service" or "telecommunications" shall have the same meaning as defined 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 provider" means a person or entity that is:

- (1) A provider as defined in section 440J-1;
- (2) A wireless telecommunications service provider as defined in section 269-16.93; 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" means wire or wires used for transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium."

SECTION 5. Section 46-15.6, Hawaii Revised Statutes, is amended by adding nine new definitions to be appropriately inserted and to read as follows:

"Collocation" means the installation, mounting, maintenance, modification, operation, or replacement of wireless ~~or wireline~~ or wireless broadband service equipment on a tower, utility pole, light standard, building, or other existing structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. For purposes of this definition, "wireless ~~or wireline~~", or "wireless broadband service equipment", or "wireline broadband service equipment":

- (1) Includes small wireless ~~or wireline~~ facilities, 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 the structure or improvements on, under, or within which the equipment is collocated.

"General applicability" refers to laws, regulations, or processes that apply to objective requirements to all persons or services in a nondiscriminatory manner and do not apply exclusively to small wireless ~~or wireline~~ facilities.

"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.

"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 ~~or wireline~~ facilities" means wireless ~~or wireline~~ facilities 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 ~~or wireline~~ 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 but not limited to buildings and water tanks, that can support fewer than three providers;

(B) Twenty-one cubic feet for collocations on all pole structures, including but not limited to 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; and

(3) Part of a small wireless ~~or wireline~~ facilities network.

"Small wireless ~~or wireline~~ facilities network" means a group of interrelated small wireless ~~or wireline~~ facilities designed to deliver wireless ~~or wireline~~ communications service.

"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 provider" means a person or entity that is:

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

(2) A wireless telecommunications service provider as defined in section 269-16.93; 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."

SECTION 6. 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 205-4.5(a)(18), as permissible uses."

SECTION 7. 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 or wireless facilities; 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

or wireline 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 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 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 Land

**Description:**

Establishes the siting process of infrastructure for small wireless ~~or-wireline~~ facilities and small wireless ~~or-wireline~~ facilities networks on state- and county-owned land. (HB625 HD~~32~~)

*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:** Monday, February 27, 2017 9:03 PM  
**To:** CPCtestimony  
**Cc:** MSMatson@hawaii.rr.com  
**Subject:** Submitted testimony for HB625 on Mar 1, 2017 14:00PM

**HB625**

Submitted on: 2/27/2017

Testimony for CPC on Mar 1, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michelle Matson	Individual	Comments Only	No

Comments: Please specifically ensure that this profusion of private devices does not occur within or around the Diamond Head State Monument.

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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Testimony before the House Committee on  
Consumer Protection & Commerce

**LATE**

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

Wednesday, March 1, 2017  
2:00p.m., Conference Room 329

House Bill 625 HD2  
Relating to Infrastructure

Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee:

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 HD2.

We appreciate the House Committee on Water & Land in considering our comments in our written testimony on HB 625 HD1. 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 the following concern with HB 625 HD2 as written:

To further support the intent of this bill and ensure that any entity taking action to install small wireless or wireline facilities networks on utility poles, structures, or light standards jointly owned by the State or county and private investor-owned utilities, we propose that page 2, line 2, be amended to read: **"As to utility poles, structures, or light standards owned jointly by the State or county and private investor-owned utilities, this Act does not relieve wireless infrastructure providers from existing requirements attached to private investor-owned utility poles[-], including but not limited to compliance with the applicable provisions of H.A.R. 6-73."**

We appreciate the support of the Legislature in hearing and understanding our concerns as we continue to work together with the stakeholders to clarify that the aforementioned intent is appropriately stated within the provisions of this bill.

Thank you for the opportunity to testify on this matter.

**Testimony of Mobilitie, LLC  
IN SUPPORT OF HB 625 HD2, Relating to Infrastructure  
Before the House Consumer Protection & Commerce Committee  
Wednesday, March 1, 2017 2:00 pm  
Conference Room 329, State Capitol  
RE: House Bill 625 HD2**

Chair McKelvey, Vice Chair Ichiyama, Members of the Consumer Protection & Commerce Committee:

Mobilitie supports HB 625 HD2, which facilitates the deployment of high-speed broadband infrastructure by establishing the siting process for small wireless or wireline facilities and small wireless or wireline facilities networks on state- and county-owned land.

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. HB 625 HD2 is much needed legislation which would allow Mobilitie to efficiently deploy small wireless facilities in order to meet the needs of Hawaii's consumers and businesses.

HB 625 HD2 facilitates the permitting process 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 in order to sustain the data capacity needed 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 HB 625 HD2.

Thank you for the opportunity to testify.