

applications, the failure to address the requirements of Chapter 205A, the difficulties in keeping inventories of this equipment and notifying the appropriate party if the equipment needs to be inspected or repaired, and the twenty-year duration of a company's permit.

The County also repeats its prior objections that this Bill will not allow it to adequately protect against the overburdening of its equipment, or a wireless facility or network causing interference with the County's existing equipment or system. The County is concerned about the effect the bill may have on various utilities' poles that the County needs for its structures and projects as working with the utilities can already be a complex process. The colocation raises security concerns, concerns about existing equipment being damaged by allowing private entities to do installation and other work on County sites, and will increase the use and wear-and-tear on existing utility poles. The bill does not a) grant counties immunity for private entities occupying and/or using county property (it grants immunity for installation, maintenance, and repairs, but not for claims arising from the private companies' operation or use of their equipment), b) allow the counties to sufficiently 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 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.

The County also notes that it has actually been willing and able to work with telecommunications companies in their efforts to implement small wireless network(s) in the right of way; however, it has only been approached by one company that has not yet proposed an adequate location to install its equipment. Some of that company's proposals would have violated the Americans with Disabilities Act, others were technically infeasible, and one proposed installing equipment on property that is not owned by the County.

For the reasons above, we cannot support SB 2704. The County would consider legislation that would be limited to Section 10 of the Bill, which requires the State and counties to adopt their own laws, regulations, or agreements with the cellular companies.

Respectfully submitted,



Harry Kim
Mayor, County of Hawai'i



Testimony of

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Senate Committees on:
Economic Development, Tourism, and Technology
Commerce, Consumer Protection, and Health

February 7, 2018

Senate Bill 2704: Relating to Wireless Broadband Facilities

Chair Wakai, Chair Baker, and members of the committees:

The nearly 700 members of the Hawai'i Lodging & Tourism Association, the largest private-sector tourism industry organization in the state, join in expressing our support for Senate Bill 2704, which would pave the way for the development of 5G wireless services to enhance the islands' digital infrastructure.

From the perspective of HLTA, digital communications have come to play an essential role in the success of the state's top industry. This connectivity is everywhere we turn, from issuing vital information to our visitors, booking flights and hotel reservations, unlocking hotel rooms or renting cars, fulfilling the communication needs of modern business travelers, demands for expanded WiFi, or the instantaneous posting of daily vacation photos and videos on the web.

But the high consumption levels of wireless data are testing the limits of our existing wireless network. Better 4G LTE and 5G are the answers to this demand. The foundation of better service and the next generation of wireless broadband, 5G, lies in the deployment of critical digital infrastructure, including small cells. As it stands, Hawai'i requires the navigation of a complex regulatory process that discourages private investment in this infrastructure. SB2704 would correct this by streamlining the process to accommodate a rapid build-out of the necessary 4G LTE wireless network and 5G. This is an essential step in ensuring our tourism industry remains among the best in the world and that our visitors and residents alike enjoy the latest advancements in technology and connectivity.

We urge to you to give this measure your favorable consideration and thank you for the opportunity to testify.

LATE

February 6, 2018

Senator Glenn Wakai, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Economic Development, Tourism, and Technology

Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Conference Room 414
Hawai'i State Capitol
Honolulu, HI 96813

RE: Testimony on SB 2704, Relating to Wireless Broadband Facilities

Chairs Wakai and Baker, Vice Chairs Taniguchi and Tokuda, and Committee Members:

My name is Christine Sakuda and I serve as the executive director of Transform Hawai'i Government (THG), a coalition of organizations and individuals who believe in improving government services for every Hawai'i resident on every island. THG supports Senate Bill 2704, Relating to Wireless Broadband Facilities, which establishes a process to upgrade and support next generation wireless broadband infrastructure throughout the state.

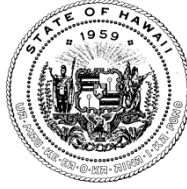
THG was established to promote an open, transparent, and responsive Hawai'i government. We advocate improving government business practices through technology to ensure government employees, residents and businesses have convenient and secure access to reliable information and data on demand. Our goal is to have government services that are streamlined, integrated and delivered in ways that exceed the expectations of the public and the needs of Hawai'i's businesses.

Access to high-speed Internet services is invariably linked to economic viability, and a critical component of our state's success in the 20th Century economy will be our ability to nurture innovation with modern digital infrastructure — including broadband infrastructure. Passage of this bill will further the state's Hawai'i Broadband Initiative goal of increasing broadband performance for businesses and residents, not only securely, but also through diverse pathways to mitigate any service interruptions.

THG strongly supports this capacity-building effort, provided the concerns of state and local government public safety agencies are addressed. By establishing a permitting, application, review and approval process to install wireless facilities on state- or county-owned utility poles (or install associated utility poles), wireless service providers will be able to collaborate with state and local agencies to build and expand ultra-high-speed Internet capacity responsibly. This measure includes language that would require permitted small wireless facilities to be constructed and maintained so as not to obstruct or materially interfere with travel or public safety equipment.

In recognition of the above, we ask that you consider allowing this measure to move forward.

Thank you for the opportunity to provide testimony in support of this important bill.



Testimony by:
JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors
ROY CATALANI
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

February 7, 2018
1:15 p.m.
State Capitol, Room 414

S.B. 2704
RELATING TO WIRELESS BROADBAND FACILITIES

Senate Committee on Economic Development, Tourism, and Technology
Senate Committee on Commerce, Consumer Protection, and Health

The Department of Transportation (DOT) **opposes** this bill that proposes to expedite the installation of wireless broadband infrastructure by reducing State regulation processes such as environmental, coordinated internal review, valuation, relocation of utilities, and permitting requirements.

Proposed legislature - 3 General – Except as provided in this chapter, the State or any county shall not prohibit, regulate, or charge for the deployment of small wireless facilities or any other associated modified or replaced utility poles used for the collaboration of small wireless facilities.

Private parties are subject to Federal and State Laws should not be allowed to bypass requirements meant to ensure that all real property within the federally aided facility is devoted exclusively to the purposes of that facility and is preserved free of all other public or private alternative uses, unless alternate uses are approved by Federal regulations or the FHWA. An alternative use must be consistent with the continued operations, maintenance, and safety of the facility, and such use should not result in the exposure of the facility's users or others to hazards. Federal law CFR 710.403 (d) requires that the State charge current fair market value or rent for use or disposal of real property interests.

Private or public utilities occupying the state right-of-way are required to enter into a Use and Occupancy Agreement. HAR 19-105-19(b) Where utility facilities are to cross or otherwise occupy, the right-of-way of an active or completed state highway project, the state and the utility shall agree in writing as to the terms of such use and occupancy, and the manner in which such facilities are to be accommodated thereon.

CFR 645.205 (d) When utilities cross or otherwise occupy the right-of-way of a direct Federal or Federal-aid highway project on Federal lands, land where the right-of-way grant is for highway purposes only, the utility must also obtain and comply with the

terms of a right-of-way or other occupancy permit for the Federal agency having jurisdiction over the underlying land.

We recommend maintaining the requirement that any work within the Highways Division right-of-way still requires the entity to obtain the Highways Permit under Section 264-6, HRS. This allows the Highways Division to make certain all new infrastructure within the right-of-way meet current safety and design standards.

Additionally, improvements to our highways system would be more difficult and public safety will be compromised if the Highways Division is not allowed to review, approve, track, and maintain control of the additional infrastructure being installed without our prior approval within the highway right-of-way.

Thank you for the opportunity to provide testimony.