



DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
AND
HOUSE COMMITTEE ON INTRASTATE COMMERCE**

Wednesday, February 6, 2019
9:00 a.m.
State Capitol, Conference Room 309

In consideration of
HB 821
RELATING TO TELECOMMUNICATIONS.

Chairs McKelvey and Ohno, Vice Chairs Kitagawa and Kobayashi and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) **Strongly Supports** HB821 which authorizes the Department of Business, Economic Development, and Tourism to enter into a public-private partnership to plan, build, and manage key strategic broadband infrastructure that benefits the State, including a cable landing station in Kakaako, on the island of Oahu.

As recommended by the Broadband Task Force, this bill recognized the importance of the construction of an open access, carrier neutral cable landing station to attract transpacific fiber optic cables to Hawaii to develop the State into a strategic communications and knowledge hub for the Pacific region.

We offer these two amendments to the bill.

- 1) On page 1, line 12, "hedge" be changed to "edge".
- 2) On page 7, line 12, to add fiscal year 2020-2021.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
ECONOMIC DEVELOPMENT & BUSINESS
and
INTRASTATE COMMERCE**

**Wednesday, February 6, 2019
9:00am
State Capitol, Conference Room 309**

**In consideration of
HOUSE BILL 821
RELATING TO TELECOMMUNICATIONS**

House Bill 821 proposes to authorize the Department of Business, Economic Development, and Tourism to enter into a public-private partnership to plan, build, and manage key strategic broadband infrastructure that benefits the State, including a cable landing station in Kakaako, on the island of Oahu, and to encourage cloud-based companies to take advantage of this infrastructure. The measure also proposes to exempt the partnership from certain state and county laws, including Chapter 171, Hawaii Revised Statutes (HRS), which exemption expires on June 30, 2024. Lastly, the bill proposes to appropriate out of the general revenues of the State of Hawaii \$10,000,000, or so much thereof as may be necessary for Fiscal Year 2019-2020. **The Department of Land and Natural Resources (Department) offers the following comments on the measure.**

The Department has jurisdiction over submerged lands out to the three-mile territorial limit. A submerged lands disposition will need to be secured from the Board of Land and Natural Resources pursuant to Section 171-53, HRS for the cable and its landing.

Thank you for the opportunity to comment on this measure.

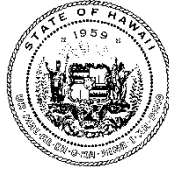
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
BONNIE KAHAKUI
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE SENATE COMMITTEES
ON
ECONOMIC DEVELOPMENT & BUSINESS

AND

INTRASTATE COMMERCE

February 6, 2019, 9:00 a.m.

HB821
RELATING TO TELECOMMUNICATIONS

Chairs McKelvey and Ohno, Vice Chairs Kitagawa and Kobayashi, and members of the committees, thank you for the opportunity to submit testimony on HB821. The State Procurement Office (SPO) opposes the proposition to exempt an entire multimillion-dollar project from the Hawaii Public Procurement Code (Code).

The Code already allows for this kind of complex partnering to take place using competitive sealed proposals. The only area that was previously in question, was if full negotiations could take place. However, the Attorney General submitted to Legislature their official opinion that discussions and negotiations can be considered as interchangeable (Reference Attachment 1 – AG Opinion, dated April 18, 2018). The Federal Acquisition Regulations and the ABA Procurement Model Code also recognize competitive sealed proposal discussions as a form of negotiations.

The Hawaii Public Procurement Code (code) is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

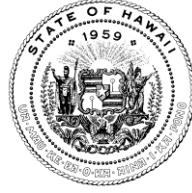
Exemptions to the code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies, are removed from the state's procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies, causing state agency contracts to become more complex and costlier, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Economic Development and Business
and
House Committee on Intrastate Commerce
Wednesday, February 6, 2019
9:00 a.m.
State Capitol, Conference Room 309**

**On the following measure:
H.B. 821, RELATING TO TELECOMMUNICATIONS**

Chair McKelvey, Chair Ohno, and Members of the Committees:

My name is Ji Sook "Lisa" Kim, and I am the Cable Administrator of the Department of Commerce and Consumer Affairs' (Department) Cable Television Division. The Department supports this bill.

The purpose of this bill is to: (1) authorize the Department of Business, Economic Development, and Tourism (DBEDT) to enter into a public-private partnership to plan, build, and manage strategic broadband infrastructure, including a cable landing station in Kakaako, and to encourage cloud-based companies to use this infrastructure; (2) allow the partnership to enter into contracts that are exempt from Hawaii Revised Statutes chapter 103D; (3) exempt the cable landing station to be built from all county permitting requirements and state permitting and requirements; and (4) appropriate funds for the cable landing station.

The Department supports public and private efforts to enhance and facilitate the deployment of, and access to, competitively priced broadband services across the State. A key component to the provision of broadband in the State, indeed the lifeline for the State's connectivity to the rest of the world, is transpacific fiber. However, advancements in submarine fiber optic technology now allow transpacific crossings to bypass the State. For this reason, and because of the expected exponential growth in demand for broadband capacity by consumers and businesses in the State, as well as the potential for the development and attraction of new businesses that rely on high capacity connection, the State has taken active steps to encourage new transpacific fiber system landings in Hawaii. This includes DBEDT's current transpacific fiber optic cable landing station project in Kakaako.

The Department thus strongly supports this bill as an important next step, by providing the necessary funding to allow DBEDT to enter into a public-private partnership to plan, build, and manage the planned cable landing station. This cable landing station would be immensely valuable to Hawaii because it would strongly encourage more cable landings. More cable landings would mean increased bandwidth capacity to meet the growing demand by consumers and to encourage and support growing technology and telecommunications industries in the State. Further, it would create competition, which could translate into lower pricing for backhaul services and lower broadband service prices for consumers.

The Department defers to DBEDT on the specific provisions of the bill and to the appropriate State and county agencies regarding the provisions providing exemptions from procurement, permitting, and approval requirements.

Thank you for the opportunity to testify on this bill.

**TESTIMONY BEFORE JOINT HOUSE COMMITTEES
COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS
AND
COMMITTEE ON INTRASTATE COMMERCE**

H.B. 821

Relating to Telecommunications

Wednesday, February 6, 2019
9:00 a.m., Agenda Item #1
State Capitol, Conference Room 309

Mindy E. Hartstein
Director of Pole Infrastructure Enterprise
Hawaiian Electric Companies

Aloha Chair McKelvey and Chair Ohno, Vice Chair Kitagawa and Vice Chair Kobayashi and Members of the Committee,

My name is Mindy E. Hartstein and I am testifying on behalf of the Hawaiian Electric Company, Inc. and its subsidiary utilities Maui Electric Company, Limited and Hawai'i Electric Light Company, Inc. (collectively, "the Companies") in support of H.B. 821, Relating to Telecommunications.

Facilitating the creation of key strategic broadband infrastructure, including the construction of an open access, carrier neutral cable landing station used to attract transpacific fiber optic cables is critical and necessary in providing sufficient capacity for the State's ever-increasing broadband demands of the future.

The Companies use broadband services to assist with key renewable and resiliency efforts such as our distributed energy resources opportunities and in providing innovative grid modernization solutions, as well as serving as a major infrastructure provider for broadband through the approximately 170,000 distribution poles and other Company assets used to attach broadband communications equipment.



As an infrastructure owner, the Companies believe the appropriation of funds for the establishment of an open access, carrier neutral cable landing station in support of the Hawaii broadband initiative is paramount for robust connectivity, economic viability, and to create renewable, resilient, and sustainable communities for the future.

Accordingly, the Companies support H.B. 821. Thank you for this opportunity to testify.



Written Statement of
Len Higashi
Acting Executive Director
Hawaii Technology Development Corporation
before the
House Committee on Economic Development and Business
And the
House Committee on Intrastate Commerce
Wednesday, February 6, 2019
9:00 a.m.
State Capitol, Conference Room 309

In consideration of
HB821
RELATING TO TELECOMMUNICATIONS.

Chairs McKelvey and Ohno, Vice Chairs Kitagawa and Kobayashi, and Members of the Committees.

The Hawaii Technology Development Corporation (HTDC) **supports** HB821 that authorizes the Department of Business, Economic Development, and Tourism to enter into a public-private partnership to plan, build, and manage key strategic broadband infrastructure that benefits the State, including a cable landing station in Kakaako, on the island of Oahu, encourage cloud-based companies to take advantage of this infrastructure, exempts the partnership from certain state and county laws, and appropriates funds.

As part of HTDC's vision to create 80,000 new innovation jobs in Hawaii earning \$80,000 or more by 2030, HTDC supports initiatives aimed at promoting technology and innovation jobs. HTDC is nearing completion for the construction phase of the Entrepreneurs Sandbox in Kakaako. The project was built through State, Federal, and private sector funds. In the future, HTDC has plans to build an incubator adjacent to the Entrepreneurs Sandbox. The cable landing station will be a key asset for both facilities and help create the critical mass required for innovation to flourish.

HTDC defers to DBEDT on the technical aspects of this measure. Thank you for the opportunity to offer these comments.

Submitted Via Online
February 4, 2019



Testimony of the
Oahu Economic Development Board (OEDB)
In Support of HB 821
RELATING TO TELECOMMUNICATIONS

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

COMMITTEE ON INTRASTATE COMMERCE

Rep. Takashi Ohno, Chair
Rep. Dale T. Kobayashi, Vice Chair

Wednesday, February 6, 2019
9:00 a.m.
Conference Room 309
State Capitol
415 South Beretania Street

Aloha Chairs McKelvey and Ohno, Vice-Chairs Kitagawa and Kobayashi, and
Members of the Committees,

The Oahu Economic Development Board supports HB 821.

In the fall of 2018 OEDB with the Economic Development Alliance of Hawaii
convened various individuals with diverse expertise in Media, IT, Education, Security,
Energy, and Economics to listen to their input on a Broadband Initiative for Hawaii.
The conversation was not a question of support for Broadband Infrastructure but the
critical unrecognized hardship or handicap our youth will need to overcome if we don't
provide for it. We strongly encourage your forwarding of this very important resource
for our most important resource.

Mahalo,

Pono Shim
CEO, Oahu Economic Development Board



Statement of: Scott Schwertfager, CEO, Ocean Networks 708 Henley Fields Circle, Johns Creek, GA 30097

Testimony presented before the

**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
AND HOUSE COMMITTEE ON INTRASTATE COMMERCE**

Wednesday, February 6, 2019 9:00 a.m.
State Capitol, Conference Room 309

In consideration of

**HB 821
RELATING TO TELECOMMUNICATIONS.**

Chairs McKelvey and Ohno, Vice Chairs Kitagawa and Kobayashi and members of the Committee. Ocean Networks parent corporation and builder of the South American Pacific Link system, **Strongly Supports** HB821 which authorizes the Department of Business, Economic Development, and Tourism to enter into a public-private partnership to plan, build, and manage key strategic broadband infrastructure that benefits the State, including a cable landing station in Kakaako, on the island of Oahu.

My name is Scott Schwertfager. I live in Johns Creek, GA and I am the CEO of Ocean Networks, Inc. Ocean Networks is developing a submarine cable system that's planned to connect Oahu, Hawaii to the west coast of South America, Central America and the continental United States (Naples, Florida). The System is called South America Pacific Link or SAPL.

Based on our 25 years of submarine cable experience with the state of Hawaii, we have concerns about landing the SAPL cable system there. There are two main issues: 1) The extended timeframe for obtaining permits 2) The cost of connectivity from a cable landing station to a cross-connect facility (data center). Submarine cable systems typically meet at a neutral data center (such as Oahu's DR Fortress) where different cable systems can cross-connect with each other and then provide connectivity to different parts of the world. Hawaii is an excellent mid-Pacific location for cable systems to cross-connect with each other. However, based on the issues mentioned above, cable systems have been bypassing Hawaii. We are of the opinion that a state-owned carrier neutral cable landing station in conjunction with connectivity to DR Fortress would alleviate the issues of landing submarine cables in Hawaii. In my opinion, submarine cables are vital for Hawaii's economic growth, they are necessary to attract new business such as large data centers i.e. Government, Amazon, Google, Microsoft, Facebook, Netflix. Cable systems and the proposed neutral cable station is an important

infrastructure for Hawaii, they should be viewed as the infrastructure of an airport that is necessary for tourism of Hawaii. They will attract transpacific fiber optic cables and the digital content they carry. This will assist Hawaii to develop into a strategic communications and knowledge hub for the Pacific region.

Thank you for the opportunity to testify.



HAWAIIKI SUBMARINE CABLE USA

16192 COASTAL HIGHWAY, LEWES, COUNTY OF SUSSEX, DE 19958 - USA

Comments to HB821

Before the House Committees on Economic Development & Business

And Intrastate Commerce

February 6, 2019 at 9a.m.

Conference Room 309

Chairs McKelvey and Ohno, and members of the Committee:

Hawaiki Submarine Cable USA LLC (Hawaiki) is the owner of Hawaiki cable system, an approximately 9,078-mile-long (14,610-kilometer-long) submarine fiber optic telecommunications cable consisting of a trunk route extending from Pacific City, Oregon, to Coogee, Australia, with connections to Kapolei.

We offer the following comments on HB821:

- On page 2, lines 3-6, the language is incorrect “Although Hawaii once served as the crossroads of transpacific communications, all of the fiber systems built across the Pacific since 2001 have bypassed the State”.
Hawaiki and SEA-US have both began service last year and are providing large capacities available in Hawaii. The Hawaiki system, connecting Australia and New Zealand to American Samoa, Hawaii and the US Mainland, has a full landing on Oahu providing 36 Terabits of capacity to the Mainland. This capacity will further increase with the introduction of improved terminal transmission technologies in the coming years.
- On page 2, lines 15-1, the language is incorrect “The legislature finds that without meaningful change in circumstances, the State will exhaust subsea fiber optic cable capacity by 2025”.
Hawaiki’s submarine fiber optic telecommunications cable’s life will extend at least until 2043 and capacity is expected to be available for users in the State at least over the next 10 years.
- The reason new north Pacific cables are by-passing Hawaii is that the great circle route from China and Japan to Asia is located very far to the north of Hawaii. The distances from the great circle route to Hawaii are shorter for links from Indonesia and South Philippines or Australia and New Zealand to the US Mainland. However, the progress of transmission technology is such that the technical benefit of an intermediate landing in Hawaii does not outweigh any more the cost and potential delay introduced by a landing. It is indeed likely that the trunk of future transpacific systems will all by-pass Hawaii but the landing of cable branches in Hawaii remains possible and could still be commercially viable, provided the right measures are taken.
- The objective indicated in page 3 line 1: “Make landing permits easier and less expensive” is the most important to ensure the landing of future cables in Hawaii. The main objective should be to make the permitting process FASTER by creating a fast track permitting process for submarine cables and, possibly, to exempt submarine cables of certain permits. This should apply to all submarine cables proposed in Hawaii, not just the proposed cable landing station in Kakaako.

- The objective indicated in page 3 line 5: “Provide easy cross-connection to other networks” is also of primary importance. It is of limited use to have an open and neutral cable station if the station is not connected to all optical backbone networks available in the State and to the main data centres. As an example, the Hawaiki cable station is connected to 4 backbone networks (out of 5), creating a level of competition and redundancy. In our view, the availability of cost competitive optical links to the data centres is more important than a neutral cable station (which can be more easily constructed as shown by the Hawaiki example).
- The Hawaiki cable station could be made available for the landing of the SAPL cable mentioned in page 3 line 16 and would provide access to the optical backbones available on Oahu island for terminating traffic and for onward connection with other cables.

Hawaiki is committed to Hawaii. Thank you for the opportunity to provide comments on HB821.