



DAVID Y. IGE
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**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Technology
and
Senate Committee on Government Operations
Tuesday, February 12, 2019
3:00 p.m.
State Capitol, Conference Room 225**

**On the following measure:
S.B. 218, RELATING TO BROADBAND**

Chair Keohokalole, Chair Thielen, 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 purposes of this bill are to: (1) authorize the Hawaii Technology Development Corporation (HTDC) to establish a public-private partnership to plan, build, and manage key strategic broadband infrastructure that benefits the State and attract cloud-based companies to Hawaii; (2) exempt the public-private partnership from Hawaii Revised Statutes chapter 103D; and (3) appropriate funds for the Hawaii Broadband Initiative and to establish an open access, carrier neutral 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 HTDC to enter into a public-private partnership to plan, build, and manage the planned cable landing station. This cable landing station will be immensely valuable, enticing more cable landings in Hawaii, which would increase bandwidth capacity to meet the growing demand by consumers and encourage and support growing technology and telecommunications industries in the State. Further, more cable landings would create competition and capacity, which could translate into lower pricing for backhaul services and lower broadband service prices for consumers.

The bill also seeks to confirm the application of Act 193, Session Laws of Hawaii 2016, under subsection (c) at page 3, line 18 to page 4, line 17, although Act 193 already appears to be applicable by its terms. However, if subsection (c) of the bill is deemed necessary, the Department recommends the following amendment to page 4, lines 11-17, to correct apparent typographical errors: “. . . form and on the site designated by the director [ef] for such posting on the designated central State of Hawaii Internet website; provided that notice need not be given to a public utility or government entity for . . . of the [exiting] existing rights-of-ways, utility easements, or telecommunications infrastructure.”

The Department defers to DBEDT and the HTDC on the other provisions of the bill and to the appropriate State and county agencies regarding the provision providing exemption from procurement. Thank you for the opportunity to testify on this bill.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/12/2019
Time: 03:00 PM
Location: 225
Committee: Senate Technology
Senate Government Operations

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0218 RELATING TO BROADBAND.

Purpose of Bill: Requires the Hawaii technology development corporation to seek to establish a public-private partnership to plan, build, and manage key strategic broadband infrastructure and attract cloud based companies to Hawaii. Makes an appropriation to establish an open access, carrier neutral cable landing station.

Department's Position:

The Department of Education (Department) supports SB 218, but defers to the appropriate departments for implementation.

A strategic focus on improving broadband in Hawaii is vital in today's society which leverages and consumes broadband services in greater numbers. This is especially the case in the educational setting where curriculum, assessment, and learning tools continue to move towards online and digital delivery. Hawaii's schools, educators, and students leverage broadband on a daily basis and broadband use continues to grow annually, especially with the Department's strategic focus on modernization and school design.

Thank you for the opportunity provide testimony on this measure.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.



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

**SENATE COMMITTEE ON TECHNOLOGY
AND
SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

Tuesday, February 12, 2019
3:00 p.m.
State Capitol, Conference Room 225

In consideration of
SB 218
RELATING TO BROADBAND.

Chairs Keohokalole and Thielen, Vice Chairs English and Inouye and members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) **Supports** SB 218, which requires the Hawaii Technology Development Corporation to seek to establish a public-private partnership to plan, build, and manage key strategic broadband infrastructure and attract cloud based companies to Hawaii. Makes an appropriation to establish an open access, carrier neutral cable landing station.

As recommended by the Broadband Task Force, this bill recognizes 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. DBEDT looks forward to working with HTDC to accomplish this.

Thank you for the opportunity to testify on this measure.



Written Statement of
Len Higashi
Acting Executive Director
Hawaii Technology Development Corporation
before the
**SENATE COMMITTEE ON TECHNOLOGY
AND
SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

Tuesday, February 12, 2019
3:00 p.m.
State Capitol, Conference Room 225

In consideration of
SB218
RELATING TO BROADBAND.

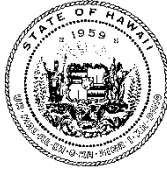
Chairs Keohokalole and Thielen, Vice Chairs English and Inouye and Members of the
Committee.

The Hawaii Technology Development Corporation (HTDC) **supports the intent** of SB218 that requires HTDC to seek to establish a public-private partnership to plan, build, and manage key strategic broadband infrastructure and attract cloud based companies to Hawaii and makes an appropriation to establish an open access, carrier neutral cable landing station.

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. 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. HTDC looks forward to working with DBEDT to accomplish this.

Thank you for the opportunity to offer these comments.

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
TECHNOLOGY

AND

GOVERNMENT OPERATIONS

February 12, 2019, 3:00 P.M.

SB218
RELATING TO BROADBAND

Chairs Keohokalole and Thielen, Vice-Chairs English and Inouye, and members of the committees, thank you for the opportunity to submit testimony on SB218. 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 procurement 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.

Consequently, the SPO refers the Committees to HB889 relating to public-private partnerships (P3). This bill adds verbiage to the Procurement Code that gives more clarity to the flexibility of competitive sealed proposals, creating a valid space for P3 solicitations for award. Verbiage in the bill can be found in the American Bar Association (ABA) 2007 Model Code for Code for Infrastructure Procurement (MC PIP) and is also recommended by The Association for the Improvement of American Infrastructure (AIAI), the leading education and advocacy group focused on rebuilding America's infrastructure through public-private partnerships.

The creation of the P3 office and set of regulations (per HB889), which include the opportunity to negotiate when situations require, still maintain the integrity of the code and allow for flexibility to explore and develop partnerships that would be most advantageous for the State.

Thank you.

Submitted Via Online
February 8, 2019



Testimony of the
Oahu Economic Development Board (OEDB)
In Support of SB 218
RELATING TO BROADBAND

COMMITTEE ON TECHNOLOGY
Senator Jarrett Keohokalole, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON GOVERNMENT OPERATIONS
Senator Laura H. Thielen, Chair
Senator Lorraine R. Inouye, Vice Chair

Tuesday, February 12, 2019
3:00 P.M.
Conference Room 225
State Capitol
415 South Beretania Street

Aloha Chairs Keohokalole and Thielen, Vice-Chairs English and Inouye, and Members of the Committees,

The Oahu Economic Development Board (OEDB) supports SB 218.

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.

OEDB supports the Hawaii Technology Development Corporation (HTDC) to seek to establish a public-private partnership to plan, build, and manage key strategic broadband infrastructure and attract cloud based companies to Hawaii. Makes an appropriation to establish an open access, carrier neutral cable landing station.

We strongly encourage your forwarding of this very important resource for our most important resource.

Mahalo,

Pono Shim
CEO, Oahu Economic Development Board



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**TESTIMONY BEFORE SENATE COMMITTEES ON
TECHNOLOGY
&
GOVERNMENT OPERATIONS**

**S.B. 218
Relating to Broadband**

Tuesday, February 12, 2019
3:00 p.m., Agenda Item #1
State Capitol, Conference Room 225

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

Aloha Chair Keohokalole and Chair Thielen, Vice Chair English and Vice Chair Inouye and Members of the Committees,

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. ("the Hawaiian Electric Companies") in support of S.B. 218, Relating to Broadband.

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 Hawaiian Electric 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 Hawaiian Electric Companies support S.B. 218. Thank you for this opportunity to testify.

SB-218

Submitted on: 2/7/2019 12:03:44 PM

Testimony for TEC on 2/12/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Judi Morris	Testifying for Oceanit Laboratories, Inc.	Support	No

Comments:

2018 - 2019

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February 11, 2019

Senate Committees on Technology and Government Affairs

Hearing Date: Tuesday, February 12, 3:00 p.m., Conference Room 225

Subject: Support, Except for Procurement Exemption Contained in SB218

Dear Chairs Keohokalole and Thielen, and Members of the Committees:

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 60 engineering consulting firms with over 1,500 employees throughout Hawaii. ACEC nationally is a strong supporter of long-term investment in modern and efficient infrastructure as a driver of our economy. We support the intent of this bill to improve broadband infrastructure in the State.

The contract to develop such infrastructure under a public-private partnership would require significant State investment, and must be subject to appropriate procurement best practices, including Qualifications-Based Selection (QBS), the nationally recognized model procurement code for the procurement of design professional services. QBS protects taxpayer interests and provides for the selection of the best qualified design professional for projects, essential for public safety.

Therefore, we propose the language regarding the procurement code be revised as follows (added language underlined):

“Section 2. (b) The public-private partnership shall be exempt from chapter 103D, Hawaii Revised Statutes, and shall develop internal policies and procedures for the procurement of goods, services, and construction that are consistent with the goals of public accountability and public procurement, including the use of qualifications-based selection for the procurement of design professional services in accordance with chapter 103D-304, Hawaii Revised Statutes.”

Please contact us if you have any questions about our testimony on SB218.

Respectfully submitted,



Sean Sugai, PE
President, ACECH

Ginny M. Wright
ACECH Executive Director
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HAWAIIKI SUBMARINE CABLE USA

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

Comments to SB218

Before the Senate Committees on Technology
and Government Operations
February 12, 2019 at 3p.m.
Conference Room 225

Chairs Keohokalole and Thielen, 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 and Mangawhai in New Zealand, with an intermediate landing point in Hawaii at Kapolei.

Hawaiki provides international connectivity services and bandwidth in the Pacific area. We are totally independent from any telecommunications carrier or content provider. We constructed and operate a submarine cable station located at Kapolei which is an open access cable station. A first cable has been landed there connecting Hawaii to the US Mainland, Australia, New Zealand and American Samoa. This cable station has been in operations since July of 2018 and is available for the landing of new submarine cable systems.

The construction of open cable stations certainly contributes to Hawaii attractiveness as a telecommunications hub, but there are other bottlenecks that need to be considered.

For instance, the recent developments in long range transmission technology are such that the intermediate landing in Hawaii of transpacific cables brings limited technical benefits. The technical advantages (reduction in the number of repeaters and additional capacity in the system) do not outweigh the additional costs of an intermediate landing and the additional time required because of the complex local permitting process.

For this reason, most future transpacific systems will by-pass Hawaii (as rightly indicated by TeleGeography). However, the progress of technology also makes it now easier to build branches to connect Hawaii to new cable systems without impacting the traffic and the operation of the cable trunk. Thus, the State needs to encourage the insertion of such branches in future systems so that Hawaii remains a telecommunications and data processing hub.

Building a new open access cable station would contribute to Hawaii attractiveness and hopefully remove the lengthy time constraint associated with local permitting. However, it would not be sufficient to build an appropriately located cable station building. Any new cable station also needs to be connected to one or more neutral interconnection point(s) where all the optical networks available in the State can be accessed. An example of such location is the DR Fortress data center in Honolulu.

We recommend that any open submarine cable station be appropriately connected by a dedicated optical fiber network to the major neutral interconnection points in the island. In our experience, the construction of such dedicated optical links is even more difficult, lengthy and costly than the construction of a new cable station and we suggest that such links should be part of any "Hawaii Broadband Initiative".

Hawaiki is committed to Hawaii and ready to cooperate in this initiative.

Thank you for the opportunity to provide comments on SB218.

Scott Schwertfager

CEO

Ocean Networks



TESTIMONY IN SUPPORT OF SB 218
Before the Senate Committee on Technology
and
Senate Committee on Government Operations
on Tuesday, February 12, 2019 at 3p.m.
in Conference Room 225

Aloha Chairs Keohokalole and Thielen, Vice Chair English and Inouye and members of the Committees:

Ocean Networks parent corporation and builder of the South American Pacific Link system, Strongly Supports SB 218 which authorizes establishment of a public-private partnership with the Hawaii technology development corporation to build and manage key strategic broadband infrastructure and attract cloud based companies to Hawaii; and Appropriates funds to the Hawaii technology development corporation to establish an open access, carrier neutral cable landing station to support the Hawaii broadband initiative.

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.

For these reasons I support passage of SB 218.

Thank you for the opportunity to provide testimony.