

HB 635, HD2, SD1

Measure Title: RELATING TO BROADBAND.

Report Title: Broadband Permits; Automatic Approval; Construction

Description: Requires the State and the counties to take action within sixty days for broadband-related permit applications; ninety days for use applications for broadband facilities for protective subzones of the conservation district use application; or one hundred twenty days for a conservation district use application for broadband facilities, or the application will be deemed approved. Establishes other requirements regarding broadband-related permits. Subjects weight load for utility poles to capacities established by the Federal Communications Commission and public utilities commission. Effective July 1, 2112. Repeals on June 30, 2018. (SD1)

Companion: SB941

Package: None

Current Referral: TEC/PSM, CPN/JDL

Introducer(s): YAMASHITA, HAR, HASHEM, ICHIYAMA, ITO, JORDAN, OSHIRO, TAKAYAMA, YAMANE

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEES ON
COMMERCE & CONSUMER PROTECTION
AND
JUDICIARY & LABOR

APRIL 3, 2013
10:15 a.m.

MEASURE: H.B. No. 635, H.D. 2, S.D. 1
TITLE: Relating to Broadband

Chair Baker, Chair Hee, and Members of the Committees:

DESCRIPTION:

This measure sets out various processes and requirements for applicants seeking to obtain "broadband-related permits" in the State. These processes and requirements cover the timing of the permitting approval process; the liability of the State, counties, and public utilities in the permitting context; compliance with safety and engineering rules; and others such processes and requirements. In addition, this bill makes amendments to Sections 2 and 3 of Act 151, Session Laws of Hawaii 2011, to conform to safety and engineering requirement provisions in other sections of this measure and to ensure the Federal Communications Commission and the Public Utilities Commission ("Commission") have authority over utility pole weight capacity limits.

POSITION:

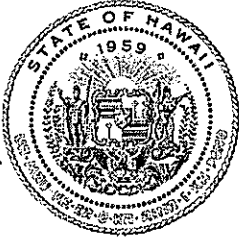
The Commission supports this measure, particularly with respect to those portions of the bill that improve existing broadband-related safety and engineering requirements, as well as those provisions that clarify the liability of various participants in the broadband permitting process. The following comments are for the Committees' consideration.

COMMENTS:

The Commission supports the current version of this measure, which acknowledges applicants must comply with safety and engineering requirements for utility poles and associated equipment that are affected by broadband-related installations and actions.

While the Commission defers to other State and county agencies responsible for overseeing broadband permitting processes regarding to the appropriateness of this measure's provisions affecting permitting application and approval requirements, such processes should not compromise mandatory safety and engineering requirements.

Thank you for the opportunity to offer comments on this measure.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development & Tourism
before the
**SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION
And
JUDICIARY AND LABOR**

Wednesday, April 3, 2013
10:15 a.m.
State Capitol, Conference Room 229

in consideration of

**HB635, HD 2, SD1
Relating to Broadband.**

Chairs Baker and Hee, Vice Chairs Galuteria and Shimabukuro, and Members of the Committees.

The Department of Business, Economic Development and Tourism (DBEDT) supports HB 635, HD 2, SD1, which amends Chapters 27 and 46, HRS, to require the State and the counties to either approve; approve with modification; or disapprove all broadband related permits; and provides longer timelines for the permits within the Conservation District.

DBEDT notes the amendments in SD 1 could be a cause for confusion as permits within the Protective Subzone of the Conservation District are allowed 90 days for a decision, in contrast to permits within the Conservation District as a whole which are allowed 120 days for a decision.

DBEDT recommends allowing 90 days for a decision in the Conservation District as we believe increased broadband capacity is critical for businesses and the growth of Hawaii's economy. Delays in processing broadband permits result in increased costs for carriers that can translate into higher costs for consumers and slower download speeds.

According to DLNR, they have issued the following permits in the last year or so for telecommunications towers for CDUAs:

1. Pending: HA-3655 - Verizon telecom facility. Accepted for processing on February 13, 2013.
2. Approved: OA-3652 - DAGS, for Mt. Kaala improvements to existing telecom site. 95 days to process through the Department.
3. Approved: MA-3624 - New telecom tower for Maui Police Department, Lanai. 163 days to process through the Land Board.
4. Approved: OA-3609 - New telecom site for Verizon. 174 days to process through the Land Board.

Two permits for past submarine fiberoptic cable projects

1. Approved: HA-3499. New submarine cable from Tahiti (Honotua). 152 days to process through the Land Board.
2. Approved: OA-3435. New submarine cable (Testra). 136 days to process through the Land Board.

Minor Permits

DLNR has issued around 15 minor permits for telecom improvements (i.e. new antennas, generator, small structures, etc.). Processing time on those permits run anywhere from two weeks to 45 days.

DBEDT defers to other appropriate state agencies for further comments on this measure.

Thank you for the opportunity to offer comments on this bill.

**Testimony before the Senate Committees on
Commerce and Consumer Protection
and
Judiciary and Labor**

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

**Wednesday, April 3, 2013
10:15 am, Conference Room 229**

**House Bill 635 HD2 SD1
Relating to Broadband**

Chairs Baker & Hee, Vice Chairs Galuteria & Shimabukuro, and Members of the Committee:

My name is Paul Nakagawa and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We continue to support the deployment of high-speed broadband infrastructure in Hawaii, and 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 also appreciate the work of the previous legislative committees for reviewing and incorporating our proposed amendments of requiring applicants and utilities to comply with the same safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology. This will further ensure consistency in compliance to engineering and safety standards in maintaining public safety.

We appreciate the support of the Legislature in hearing and understanding our concerns as we continue to work together in addressing such issues.

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

HB 635 HD2 SD1

RELATING TO BROADBAND

**KEN HIRAKI
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM
April 3, 2013**

Chairs Baker, Hee, and Members of the Committees:

Hawaiian Telcom support the overall goal of HB 635 HD2 SD1 to accelerate broadband infrastructure deployment in the state. We believe that measures streamlining the current permit review process will help to encourage the timely deployment of advanced broadband services throughout the islands. Enactment of HB 635 HD2 SD1 is a step in the right direction that will assist us to successfully meet the growing public demand for more bandwidth and faster broadband speeds.

Hawaiian Telcom respectfully requests HB 635 HD2 SD1 be adopted.

Thank you for the opportunity to testify.

Rochelle Jones
Senior Vice President, Regulatory Affairs


tw telecom inc.
60 Columbus Circle, 16th Floor
New York, NY 10023
(212) 364-7319

April 3, 2013

Honorable Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection

Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

RE: HB635 HD2 SD1 – Relating to Broadband - Support
CPN/JDL Committees – Conference Room 229, 10:15 a.m.

Aloha Chairs Baker and Hee and Members of the Committees:

I am Rochelle Jones, Senior Vice President of Regulatory Affairs for tw telecom (“TWTC”), which has operated in Hawaii since 1994, providing voice, Internet and data networking, and managing nearly 25,000 access lines to state and local governments, military, and businesses in the State.

Thank you for the opportunity to present testimony in support of HB635 HD2 SD1, Relating to Broadband. TWTC appreciates the considerable efforts to expedite the deployment of high-speed broadband technology in Hawaii. The state has endeavored to support the development of broadband within the state since 2007, when the legislature created the Hawaii Broadband Task Force with the primary purpose of 1) removing the barriers to broadband access, including gaining wider access to public rights-of-way; 2) identifying opportunities for increased broadband development and adoption, including very high speed broadband services; and 3) enabling the creation and development of new advanced communication technologies in Hawaii. Since then, Governor Neil Abercrombie announced a state broadband initiative in 2011.

This bill provides improvements to the framework set in place by Act 151, Session Laws of Hawaii 2011. Notably, this bill codifies a process for the state to administer broadband permit applications, and provides for reasonable procedures for an applicant to modify a permit application, which we support.

For these reasons we respectfully request that the committees pass HB635 HD2 SD1.

Sincerely,

/s/

Rochelle Jones
Senior Vice President of Regulatory Affairs - tw telecom inc.