

Honolulu, Hawaii

FEB 16, 2024

RE: H.B. No. 2710
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Higher Education & Technology, to which was referred H.B. No. 2710 entitled:

"A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS,"

begs leave to report as follows:

The purpose of this measure is to require a wireless telecommunications carrier, as a condition for any conservation district use permit to construct, reconstruct, or alter a telecommunications facility on Kaiwa Ridge, to maintain emergency backup power for a minimum of eight hours.

Your Committee received testimony in support of this measure from Bluestone Townhomes Board of Directors; Lanikai Association; and two individuals. Your Committee received testimony in opposition to this measure from the Department of Land and Natural Resources and CTIA. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that during emergencies, cellular phone connectivity is imperative so that residents and visitors can communicate with others and receive warnings and alerts. Your Committee further finds that the provisions of this measure should be applied statewide.

Your Committee has amended this measure by:

2024-1618 HB2710 HD1 HSCR HMSO



- (1) Extending its requirements statewide;
- (2) Changing its effective date to July 1, 3000, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee notes the legal concern raised by CTIA that mandates like those in this measure are expressly preempted by Section 332 of the Federal Communications Act and that longstanding case law has established that state regulation that attempts to regulate the adequacy of wireless carriers' network facilities and the level or quality of their services constitutes impermissible regulation of market "entry" and is therefore barred by that section. While your Committee recognizes this concern, it also notes that California appears to have similar provisions in place and therefore your Committee believes that there is merit in moving this measure forward while looking into the issue of possible preemption.

As affirmed by the record of votes of the members of your Committee on Higher Education & Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2710, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2710, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

Respectfully submitted on
behalf of the members of the
Committee on Higher Education &
Technology,



Fr

AMY A. PERRUSO, Chair



