
A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that wireless
2 communications have become an integral part in the daily lives
3 of millions of Americans. They play an important role in
4 enabling community economic development opportunities, improving
5 communications among family and friends, and allowing rapid
6 responses to accidents and emergency situations. Wireless
7 customers demand and deserve adequate coverage and sufficient
8 capacity on wireless networks to keep pace with their needs.
9 Part of the challenge of providing improved services to the
10 public is ensuring an efficient application and approval process
11 for new wireless facilities.

12 The purpose of this Act is to ensure the safe and efficient
13 integration of facilities necessary for the provision of
14 advanced wireless communications services and to ensure the
15 ready availability of reliable wireless service to the public
16 and government agencies and first-responders with the intention
17 of furthering public safety and general welfare.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 § -1 **Definitions.** For the purposes of this chapter,
6 unless the context clearly requires otherwise:

7 "Antenna" means communications equipment that transmits and
8 receives electromagnetic radio signals used in the provision of
9 all types of wireless communications services.

10 "Application" means a formal request submitted to the local
11 authority to construct or modify a wireless support structure or
12 a wireless facility.

13 "Authority" means any state or county planning commission
14 or any county council that has adopted planning and zoning
15 regulations for all or the majority of land uses within the
16 jurisdiction.

17 "Building permit" means an official administrative
18 authorization issued by the proper authority prior to beginning
19 construction of any new or existing support structure.

20 "Collocation" means the placement or installation of
21 wireless facilities on existing structures, including towers,
22 buildings, utility poles, and water tanks, in a manner that



1 negates the need to construct a new free-standing support
2 structure such as a tower.

3 "Distributed antenna system" means a group of antennas
4 separated in space to provide coverage over the same area as a
5 single antenna, but with reduced total power.

6 "Equipment enclosure" means an enclosed structure, cabinet,
7 or shelter used to contain radio or other equipment necessary
8 for the transmission or reception of wireless communication
9 signals.

10 "Existing tower" means a free-standing support structure
11 constructed prior to the enactment of this Act that is used to
12 provide wireless services.

13 "Utility pole" means a structure owned or operated by a
14 public utility regulated by the public utilities commission that
15 is designed specifically for and used to carry lines, cables, or
16 wires for telephony, cable television, or electricity or to
17 provide lighting.

18 "Wireless facility" means the set of equipment and network
19 components, exclusive of the underlying support structure or
20 tower, including, but not limited to, antennas, transmitters,
21 receivers base stations, power supplies cabling, and associated



1 equipment necessary to provide wireless services to a discrete
2 geographic area.

3 "Wireless support structure" means a freestanding
4 structure, such as a monopole or tower designed to support
5 wireless facilities.

6 § -2 **Construction of new wireless facilities and support**

7 **structures.** (a) An authority may plan for and regulate the
8 siting of wireless communications facilities in accordance with
9 state and county planning or zoning regulations and in
10 conformity with this chapter.

11 (b) Any entity that is engaged in the business of
12 providing wireless telecommunications services or the wireless
13 telecommunications infrastructure and that proposes to construct
14 a wireless telecommunications support structure shall:

15 (1) Submit the necessary copies and attachments of the
16 applicant's completed application to construct a
17 wireless telecommunications support structure; and

18 (2) Comply with any state and county laws, ordinances, and
19 rules concerning land use and the appropriate
20 permitting processes, subject to the limitations
21 imposed by this chapter.

22 (c) All application materials are subject to chapter 92F.



1 (d) After an applicant's submission of a completed
2 application to construct a wireless telecommunications support
3 structure, the authority shall:

- 4 (1) Review the completed application;
- 5 (2) Make its final decision to approve or disapprove the
6 application; and
- 7 (3) Advise the applicant in writing of its final decision
8 within ninety days commencing from the date that the
9 application is deemed complete or by a date certain
10 specified in a written agreement with the applicant.

11 (e) A party aggrieved by the final decision denying an
12 application under the provisions of this chapter may bring an
13 action for review in any court of competent jurisdiction.

14 **§ -3 Collocation of antennas and equipment.** (a) In
15 deploying or expanding commercial and public safety wireless
16 networks, the collocation of new antennas and equipment on
17 existing support structures, including buildings, utility poles,
18 water towers, or existing conforming or nonconforming
19 communication towers, is preferred to constructing new towers or
20 support structures.

21 (b) Applications for collocation on existing or
22 replacement utility poles owned and operated by a public utility



1 where the poles are located in the public right-of-way shall not
2 be subject to zoning, land use, or regulatory approval when the
3 height of the pole will not be increased by more than the
4 minimum separation safety zone required by the pole owner or by
5 twenty-five per cent of the height of the original pole,
6 whichever is greater. Such collocations may be subject to
7 applicable federal, state, and public utilities commission laws,
8 rules, and regulations for pole attachments.

9 (c) An application for a collocation on an existing
10 structure may be subject to the issuance of a building permit
11 and any fee associated with such a permit.

12 (d) An application to construct a new wireless
13 communications support structure may be denied based upon the
14 applicant's unwillingness to evaluate the reasonable feasibility
15 of collocating new antennas and equipment on an existing
16 structure or structures; provided that an application may not be
17 denied if evidence is provided that collocation is technically
18 infeasible or unduly economically burdensome to the wireless
19 service provider.

20 § -4 **Limitations.** A permitting authority shall not:

21 (1) Impose environmental testing, sampling, or monitoring
22 requirements, or other compliance measures for radio



1 frequency emissions on wireless communications
2 facilities that are categorically excluded under the
3 federal communications commission's rules for radio
4 frequency emissions pursuant to 47 CFR 1.1307(b)(1);
5 (2) Institute a moratorium on the construction of new
6 wireless communications support structures lasting
7 over ninety days or institute any moratorium within
8 six months of the conclusion of any previous
9 moratorium on the construction of wireless
10 communications support structures;
11 (3) Charge an application fee, consulting fee, or other
12 fee associated with the submission, review,
13 processing, or approval of a permit that is not
14 required for other types of commercial development;
15 provided that any fees imposed for providing review or
16 technical consultation with regard to an application
17 shall not exceed what is usual and customary, and in
18 no case shall total charges and fees exceed \$ for
19 a collocation or \$ for the placement and
20 construction of a new wireless facility or support
21 structures;



- 1 (4) Permit third-party consultants to charge wireless
2 telecommunications service providers for any travel
3 expenses incurred in the consultant's review of
4 wireless telecommunications permits;
- 5 (5) Establish or enforce rules, or procedures for radio
6 frequency signal strength or the adequacy of service
7 quality in the consideration of any application for
8 the construction, modification, maintenance, or
9 operation of a wireless facility or support structure;
- 10 (6) Impose surety requirements, including bonds, escrow
11 deposits, or any other type of financial surety, to
12 ensure that abandoned or unused facilities can be
13 removed unless similar requirements are allowed for
14 permits for other types of commercial development or
15 land use. If surety requirements are imposed, they
16 shall be competitively neutral, nondiscriminatory,
17 reasonable in amount, and commensurate with the
18 historical record for similar requirements;
- 19 (7) Prohibit the placement of emergency power systems that
20 comply with federal and state environmental
21 requirements;



- 1 (8) Discriminate on the basis of the ownership of any
- 2 property, structure, or tower when promulgating rules
- 3 or procedures for siting wireless facilities or for
- 4 evaluating applications for collocations or new
- 5 wireless facilities or support structures;
- 6 (9) Condition the approval of a new support structure or
- 7 collocation on the agreement of the structure owner to
- 8 provide space on the structure for governmental
- 9 services at less than the market rate;
- 10 (10) Limit the duration of any permit for a wireless
- 11 facility or support structure when evaluating an
- 12 application for a wireless facility or collocation; or
- 13 (11) Require an applicant to construct a distributed
- 14 antenna system instead of constructing a new wireless
- 15 support structure or collocating on an existing
- 16 structure, such as a utility pole, existing tower, or
- 17 building."

18 SECTION 3. If any provision of this Act or the application
19 thereof to any person or circumstance is held invalid, the
20 invalidity does not affect other provisions or applications of
21 the Act that can be given effect without the invalid provision

1 or application, and to this end the provisions of this Act are
2 severable.

3 SECTION 4. This Act shall take effect upon its approval.

4

INTRODUCED BY:

A handwritten signature in cursive script, reading "Cindy Evans", is written over a horizontal line.

JAN 17 2007



Report Title:

Telecommunications; Wireless Communications Antenna Placement

Description:

Creates a streamlined application process for wireless telecommunications facilities and encourages the placement of antennas on existing utility poles.

