

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 984
H.D. 4
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Economic Development and Technology and
Commerce and Consumer Protection, to which was referred H.B.
No. 984, H.D. 4, entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY,"

beg leave to report as follows:

The purpose of this measure is to implement recommendations
of the Hawaii Broadband Task Force to develop the State's
broadband access and infrastructure.

Specifically, this measure:

- (1) Establishes the Hawaii Communications Commission and the
Hawaii Communications Commissioner within the Department
of Commerce and Consumer Affairs;
- (2) Transfers regulatory functions relating to
telecommunications providers from the Public Utilities
Commission to the Hawaii Broadband Commissioner while
authorizing the Public Utilities Commission to continue
exercising its authority until July 1, 2010;
- (3) Transfers regulatory functions relating to cable
operators from Department of Commerce and Consumer
Affairs to the Hawaii Communications Commission;



- (4) Establishes the Hawaii communications commission special fund into which will be deposited penalties collected by the Hawaii Communications Commission to fund the operations of the Hawaii Communications Commission;
- (5) Requires Department of Commerce and Consumer Affairs to transfer four positions to service the Hawaii Communications Commission and requires up to ten additional general funded positions to be transferred to the Hawaii Communications Commission and funded from the Hawaii communications commission special fund;
- (6) Requires the Hawaii Communications Commission to convene a working group to develop procedures for streamlined regulatory, franchising, and permitting for broadband service and technology and to report its findings to the Legislature by January 1, 2010;
- (7) Requires the Hawaii Communications Commission to begin implementing the recommendations of the working group by July 1, 2010;
- (8) Requires the Hawaii Communications Commission to review Hawaii's laws relating to broadband and related subjects, and recommend amendments of these laws to conform to the new Hawaii Communications Commission requirements, or to facilitate implementation of those requirements;
- (9) Extends by one year, to July 1, 2011, the time by which the Hawaii Communications Commission must investigate the extent to which telecommunications services provided to residential and business customers are available from multiple providers in Hawaii and whether to reclassify those services as "fully competitive" communications services;
- (10) Exempts telecommunication carrier rates, fares, and charges, and the classifications, rules, and practices implementing such rates, fares, and charges from regulation by the Hawaii Communications Commission;
- (11) Extends the time period for which a cable franchise may be held without requiring renewal from fifteen to twenty years;



- (12) Provides that the regulation of telecommunications carriers and telecommunications common carriers contained in section 2 of this measure will take effect on July 1, 2010; and
- (13) Ensures that the Public Utilities Commission will continue its regulation of telecommunications until the Hawaii Communications Commission takes over.

Testimony in support of this measure was submitted by the Department of Commerce and Consumer Affairs, the Department of Business, Economic Development, and Tourism, the High Technology Development Corporation, Hawaiian Telecom, Akaku Maui Community Television, Permaculture Maui, and five hundred ninety-three concerned individuals. Testimony in opposition of this measure was submitted by Time Warner Telecom. Comments on this measure were submitted by the Broadband Taskforce, AT&T, Verizon Communications, Oceanic Time Warner Cable, Community Media Producers Association, Connected Nation, and two concerned individuals. Written testimony presented to the Committees may be reviewed on the Legislature's website.

Your Committees find that communications technologies of telecommunications, cable, and broadband have become increasingly intertwined, such that advances in any one technology have important ramifications for the others. Your Committees also find that a unified approach to regulating providers of these services is required. Your Committees further find that this measure will enable the consolidated regulation of cable and telecommunications while promoting the growth and development of broadband infrastructure throughout the State. Your Committees believe that expanded access to affordable broadband will facilitate greater economic and educational opportunities for individuals and businesses in the State.

Your Committees have amended this measure by:

- (1) Deleting its contents and replacing it with the contents of S.B. No. 1680, S.D. 2;
- (2) Adding the phrase "as permitted by federal law" in section -7(b), relating to the general powers of the commissioner to ease the concerns raised by various industry representatives regarding the sharing of



infrastructure, which is generally prohibited by federally law;

- (3) Amending section -13 regarding the notice requirements for investigations by the Hawaii Broadband Commissioner and public hearings;
- (4) Amending subsection (a) in section -20 to require a portion of the funds in the commissioner special fund to develop and construct broadband infrastructure and services available to low-income and disadvantaged persons;
- (5) Adding subsection (d) to section -20 to authorize the transfer of unexpended franchise fees to the commissioner special fund;
- (6) Deleting the number of members of the Communications Advisory Committee as discussed in section -22, as well as the requirement for certain entities to submit a list of names to the Governor for appointment to the Communications Advisory Committee;
- (7) Amending section -38 regarding the regulation of telecommunication carrier rates and ratemaking procedures;
- (8) Changing the fund that the Hawaii Broadband Commissioner may use to purchase broadband facilities and services from the compliance resolution fund to the commissioner special fund;
- (9) Amending the type of personnel positions that the Hawaii Broadband Commissioner may appoint and employ;
- (10) Adding a section -54 to clarify the State's local exchange intrastate services as being classified as "fully competitive";
- (11) Amending section -67(f) regarding public, educational, or governmental use (PEG) channels to decrease the number of channels that the cable operator shall designate and activate for public, educational, or governmental use from five channels to three channels;

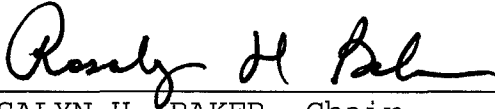


- (12) Amending subsection (j) in section -67 to exempt PEG access service contracts from the requirements of chapter 103D, Hawaii Revised Statutes;
- (13) Adding in section -67 that the Hawaii Broadband Commissioner is subject to the conditions and procedures contained in chapter 91, Hawaii Revised Statutes, in designating and selecting PEG access organizations;
- (14) Adding a section -76 that provides the Hawaii Broadband Commissioner with the authority to contract with service providers to develop broadband inventory maps, as permitted by federal law;
- (15) Amending section 58 to address the concerns of the Department of Budget and Finance, the Department of Human Resources Development, and the Department of the Attorney General, regarding the transfer of employee positions to the Hawaii Broadband Commissioner;
- (16) Changing the effective date from July 1, 2020, to July 1, 2050; and
- (17) Making technical, nonsubstantive amendments for the purpose of clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Technology and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 984, H.D. 4, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 984, H.D. 4, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Economic
Development and Technology and
Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair



CAROL FUKUNAGA, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">HB 984, HD 4</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">EDT/CPN, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3-20-09</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
HEE, Clayton				✓
IGE, David Y.	✓			
SLOM, Sam	✓	✓		
TOTAL	3	1	—	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-top: 10px;">Rosalyn H. Baker</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.7em; margin-top: 2px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes

The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">HB 984 HDA</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">EDT/CPN, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3/23/2009</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div> <input type="checkbox"/> Pass, unamended 2312 </div> <div> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div> <input type="checkbox"/> Hold 2310 </div> <div> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman	✓			
HEMMINGS, Fred	✓			
TOTAL	7			
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; text-align: center;">David Y. Ige</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div> Original File with Committee Report </div> <div> Yellow Clerk's Office </div> <div> Pink Drafting Agency </div> <div> Goldenrod Committee File Copy </div> </div>				

***Only one measure per Record of Votes**