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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Thursday, February 25, 2010
10:00 a.m.

**TESTIMONY ON H.B. 2698, H.D. 1
RELATING TO TECHNOLOGY**

TO THE HONORABLE MARCUS OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Lawrence Reifurth, Director of the Department of Commerce and Consumer Affairs ("Department"). The Department supports the establishment of a Hawai'i Broadband Commission and Hawai'i Broadband Commissioner to promote and encourage broadband development and deployment but prefers an alternate approach.

H.B. 2698 establishes the Hawai'i Broadband Commission and Hawai'i Broadband Commissioner to promote: 1) widespread access to broadband at competitive prices throughout the State; 2) the sharing of broadband infrastructure used for deployment to ease costs and entry into a competitive broadband market; and 3) a streamlined permit approval process to be created jointly by stakeholders.

The bill calls for a broadband commission of five members appointed by the Governor with the advice and consent from the Senate from a list of nominees selected by the Speaker of the House of Representatives. The commission is tasked with developing policy initiatives and regulatory changes to promote expanded broadband access, to recommend strategies encouraging private investment in broadband, to develop strategies to increase moneys available to State to provide increased broadband access to underserved populations and areas, and to develop strategies to share utilities infrastructure and conduits for broadband access.

In addition, the bill establishes a broadband commissioner within DCCA for administrative purposes. The commissioner is also appointed by the Governor with the advice and consent of the Senate from a list of nominees selected by the Speaker of the House of Representatives. The commissioner shall execute the recommendations of the commission as well as act as liaison between the State and other governmental agencies, private industry, and the public regarding broadband technology utilization; coordinate efforts between the State and counties to make broadband available to underserved populations and areas; encourage private business to invest in the broadband communications industry; assist in streamlining the permitting and regulatory process; and help secure funding for broadband projects. Funding for the commission and commissioner will come from an appropriation from the general fund.

The Department prefers H.B. 984, H.D. 4, S.D. 1, proposed C.D. 1, a comprehensive broadband bill, versions of which were introduced in the 2009 Session by the House Majority, the Senate Majority, House Minority, and the Administration. A

copy of the Department's annotated proposed conference draft for H.B. 984, H.D. 4, S.D. 1 was attached to the Department's testimony on H.B. 2698 before the House Committees on Economic Revitalization, Business and Military Affairs and Consumer Protection and Commerce on February 3, 2010.

The proposed conference draft of H.B. 984, H.D. 4, S.D. 1 tracks key recommendations of the Hawai'i broadband task force by establishing the Hawai'i Communications Commission to be administratively attached to the Department. After many legislative committee hearings, and one-on-one and group meetings on various versions of the broadband bill with communications service providers, governmental agencies, and interested parties, general consensus was reached on the proposed conference draft of H.B. 984, which directs the Commission to achieve various goals such as creating access on a competitive basis at reduced prices, increasing service penetration and quality, streamlining the permit approval process, and providing access to businesses and residents at prices and speeds that will make us world leaders, attract investment and empower our people, transfers funding from existing fees and transfers existing Department employees to the Commission.

The proposed conference draft differs from the S.D. 1 in part by the deletion of that portion that was intended to address the partial deregulation of telecommunications, in light of the Legislature's adoption last year of Act 180, Session Laws of Hawaii 2009.

In addition, the proposed conference draft includes the regulation of communication services (i.e., telecommunications and video programming) as part of

the duties of the Hawai'i Communications Commission. Moreover, the Commission shall be responsible to designate the entity to maintain the broadband inventory maps which are currently being developed under a federal American Recovery and Reinvestment Act grant.

H.B. 2698, H.D. 1 calls for a general fund appropriation for the operations of the Commission and Commissioner. As a matter of general policy, the Department does not support this type of appropriation due to its impact on the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011.

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

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
HOUSE COMMITTEE ON FINANCE
February 25, 2010
10:00 AM
State Capitol, Conference Room 308

In consideration of
HB 2698 HD1 RELATING TO TECHNOLOGY.

Chair Oshiro, Vice Chair Lee, and Members of the House Committee Finance.

The High Technology Development Corporation (HTDC) supports HB 2698 HD1, as we recognize the significance of the role of ubiquitous broadband in Hawaii and for its economic development.

While some may regard broadband as “nice to have”, technological advances have made regular utility services available via broadband and vice versa. As seen in court battles from the 1990s, the issue of open access and broadband has been a hot topic which required government intervention, as broadband is now the utility of the 21st century. The state of Hawaii has one of the most liberal telecommunication laws. We have an obligation to leverage it and to ensure that Hawaii does not become a “fly over state” in terms of broadband. To pursue that goal, the State requires a dedicated committee to discuss and implement broadband policies and initiatives recommended by the State’s Broadband Task Force and according to best practices considered by other states, and nations, such as studies by the Intelligent Community Forum and The Information Technology and Innovation Foundation, all outlining how broadband is one of the fundamental utilities to establish an innovation-based economy.

Further, establishing a structure like the Hawaii Communications Commission, would proactively address permitting bureaucracy that the public has criticized the State in the past.

This testimony has not been authorized by the Administration, nor does it reflect the Administration's position. This testimony reflects the position of HTDC only.

Thank you for the opportunity to submit testimony on this bill.



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February 25, 2010

The Honorable Representative Marcus Oshiro
Chair, Committee on Finance
Hawaii House of Representatives

*RE: Opposition to House Bill 2698 HD1
House Committee on Finance Hearing February 25, 10 a.m.*

Dear Rep. Oshiro and Members of the Committee:

AT&T opposes House Bill 2698 HD1, although we appreciate the focus this legislation puts on broadband services for the citizens of Hawaii. With the State Legislature facing a large budget deficit, we suggest that the Committee on Finance look for ways to promote broadband in a way that would not create a new Commission and Commissioner in state government.

One approach can be found in Senate Bill 2543 SD1, which would give expanded broadband authority to the Director of the Department of Commerce and Consumer Affairs, with the support of an Advisory Committee made up of a broad cross section of stakeholders, including representatives from industry. We believe this approach could achieve the same goals as House Bill 2698 HD1, while minimizing the need for additional financial resources.

AT&T is also concerned about the emphasis that this legislation places on "strategies for sharing new and existing utilities infrastructure and conduits to provide broadband access" (see Section 4-6). Telecommunications providers have invested millions of dollars in their networks, and any policy that would mandate sharing of these facilities would be detrimental to consumers and discourage further investment by providers. We would rather see the emphasis placed on public-private partnerships, which would be mutually beneficial to all stakeholders, especially consumers.

AT&T does support the recognition in the legislation that permitting processes should be improved at the state and local level to facilitate the deployment of broadband services.

Thank you for considering our comments. We invite a dialogue about how the State of Hawaii can best move forward to encourage the deployment of broadband services. We do not think House Bill 2698 HD1 is the answer, and urge your opposition.

Respectfully Submitted,

Dan Youmans, AT&T



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February 24, 2010

Honorable Marcus R. Oshiro
Chair, House Committee on Finance

Re: HB 2698, HD1 - Relating to Technology
FIN Hearing, Thursday, February 25, 2010, 10:00 a.m., Room 308, Agenda #1

Aloha Chair Oshiro, Vice Chair Lee and Committee members:

I am Nate Smith, President of Oceanic Time Warner Cable ("Oceanic"). On behalf of Oceanic, which provides a diverse selection of entertainment, information, and communication services, and currently employs more than 1,000 highly-trained individuals, we appreciate the opportunity to submit written testimony today. Oceanic supports the intent of HB 2698, HD1.

This bill establishes the Hawaii communications commission and the Hawaii broadband commissioner. Among other responsibilities, the bill requires the commission and commissioner to work towards various goals, including increasing broadband availability in the state, providing increased, flexible, timely and responsible access to public rights of way and public facilities for broadband service providers, and providing a more streamlined permit approval process that reduces the time and cost of broadband infrastructure deployment.

As the largest broadband provider in the state, Oceanic recognizes that advanced broadband services are important for our residents and are essential for the advancement of education, health, public safety, research, innovation, civic participation, and many other areas. Accordingly, Oceanic, in particular, supports the bill's intent to promote broadband availability, provide flexible, timely and responsible access for broadband infrastructure, and to find ways to streamline the permit approval process for broadband deployment.

Finally, as the committee is aware, the FCC is in the midst of developing a national broadband policy, and there will be further discussions among all affected stakeholders on the most efficient and cost-effective ways to accomplish the goals articulated in the bill. Accordingly, detailed regulatory proposals are premature, and Oceanic therefore supports the bill's approach to establish a broadband commission (and commissioner) in order to establish a forum and process to fully and carefully consider various policy and operational issues that will arise in connection with fulfilling the objectives of the bill.

For the foregoing reasons, Oceanic supports the intent of HB 2698, HD1. As always, I appreciate the opportunity to share our views with you.

Sincerely,

Nate Smith
President