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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE

Monday, February 27, 2012
1:00 PM
State Capitol, Conference Room 308

in consideration of
HB 2324 HD1
RELATING TO BROADBAND

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

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The SMA, a subset of the larger coastal zone, generally extends inland from the shoreline to the nearest highway. This is the most sensitive area of the coastal zone, within which the legislature determined that special controls on developments were needed to (1) avoid permanent losses of valuable resources and the foreclosure of management options, (2) ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided, and (3) preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. See HRS §205A-21. Within this narrow band

around the coast, proposed "development" is required to obtain an SMA permit from the respective county within which it is located.

HB 2324 HD1 proposes to exempt any actions relating to the installation, improvement, construction, upgrading, or development of new or existing broadband facilities on state property from county permitting requirements, and state permitting and approval requirements, including but not limited to the requirements of HRS chapters 171, 205A, and 343, except to the extent that the permitting or approval is required by federal law or is necessary to protect eligibility for federal funding, services, or other assistance from July 1, 2012 to June 30, 2017.

OP supports the intent of this bill to streamline permitting for development of broadband facilities on state property. However, we recommend that the language in Section 1 (a) of this bill be in parity with the language from Act 151, Session Laws of Hawaii 2011, Section 2, by adding the following:

"...provided that the installation, improvement, construction, or development of infrastructure shall:

- (1) Be directly related to the improvement of existing telecommunication cables or the installation of new telecommunications cables:
 - (A) On existing or replacement utility poles and conduits; and
 - (B) Using existing infrastructure and facilities;
- (2) Take place within existing rights-of-way or public utility easements or use existing telecommunications infrastructure; and
- (3) Make no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure.

A person or entity shall use reasonable best efforts to comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to wireless broadband service."

OP is working with state agencies to develop a streamlined process that maintains consistency with the federal and state approved CZM Program. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric Administration (the federal agency which funds the state's CZM Program). The Administration will have a proposed bill to address these issues in the next legislative session.

In the interim, OP supports certain stop-gap bills that exempt certain state projects from SMA permitting, because those bills include a sunset date, do not change HRS Chapter 205A, and provide that the affected agencies will consult with the CZM Program on consistency.

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

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February 27, 2012

H.B. 2324 H.D. 1
RELATING TO BROADBAND

LATE TESTIMONY

HOUSE COMMITTEE ON FINANCE

The Department of Transportation supports the intent of this bill but with concerns.

This bill proposes to exempt the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology. We would recommend adding the requirement that any work within the Highways Division right-of-way still requires the entity to obtain the Highway Permit under Section 264-6, HRS. This would provide the Highways Division to not only track the additional infrastructure in our right-of-way, but to also review the traffic control plans for the installation.

Thank you for the opportunity to provide testimony.





Sierra Club Hawai'i Chapter

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LATE TESTIMONY

HOUSE COMMITTEE ON FINANCE

February 26, 2012, 1:00 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2324 (HD1)

Aloha Chair Oshiro and Members of the Committees:

The Sierra Club of Hawai'i strongly *opposes* HB 2324 (HD1). This bill misguidedly exempts all "broadband" projects from all permitting, licensing, and certification requirements on state property.

We are deeply concerned about eliminating "all" permitting, licensing, and certification requirements for certain projects. Recall that permitting can sometimes include the only opportunity for agency and public involvement. Public oversight of our public natural resources is essential and required under our Constitution.

Our regulatory system provides for checks and balances and ensures protection of the public at large. It ensures some form of accountability—if the State plans to take action that may diminish the quality of life or adversely impact the environment that everyone shares, those impacts are acknowledged and mitigated before they occur. Without such a disclosure, we would blindly take actions without knowing what the future costs or benefits would be. The essence of our environmental review process is used to understand and fix problems *before they occur*.

We ask this Committee to hold this bill. Mahalo for the opportunity to testify.