

STAND. COM. REP. NO. 3677

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 2651
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 2651, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO WIRELESS BROADBAND FACILITIES,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a process to upgrade and support next generation wireless broadband infrastructure throughout the State.

This measure also establishes a permitting, application, review, and approval process for wireless service providers to install wireless facilities on State or county owned utility poles, or install associated utility poles, in the right-of-way.

Your Committee received written comments in support of this measure from the Department of Business, Economic Development, and Tourism; Department of Transportation; Verizon Communications; AT&T; T-Mobile USA, Inc.; CTIA; Maui Chamber of Commerce; Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii; and one individual.

Your Committee received written comments in opposition to this measure from the County of Hawaii; Spectrum/Charter Communications; and Airport Concessionaires Committee.



Your Committee received written comments on this measure from the Department of Land and Natural Resources; Department of Commerce and Consumer Affairs; and County of Maui, County Council.

Your Committee finds that this measure generally strikes the right balance between the important policy goals of encouraging ongoing investment in wireless broadband technologies statewide to stimulate the technology economy and meet the demand of residents and visitors while also maintaining state and county oversight of host facilities in the right-of-way.

Your Committee, however, finds that several state agencies and a private entity have expressed concerns over the measure, which may need to be resolved should this measure proceed to a Conference Committee.

Specifically, the Airport Concessionaires Committee opposed the measure unless public airports are exempted from its provisions. The Department of Land and Natural Resources noted that any user and occupier of public trust lands will be required to apply for a land or building disposition (use and occupancy agreement) pursuant to Chapter 171, Hawaii Revised Statutes. The Department of Commerce and Consumer Affairs advised that the measure should be amended to require the extension of high-speed Internet access that can bridge the digital divide for residents in unserved and underserved areas of the State.

In addition, the Department of Transportation expressed multiple concerns. Specifically, the Department is concerned that timelines for the delivery of upgrades to poles that support wireless infrastructure need to take into account the time required for the manufacture and delivery of upgrades from the continental United States. Second, the Department predicts that the minimal fee structure will not enable the Department to recover the cost for the work, and further, the Department does not believe that it should bear the cost. Third, the Department may possibly violate the requirements of the Federal Aid program if it cannot charge and collect fair market value from the users of the Federal Aid system. Fourth, the Department believes that thirty days is an insufficient amount of time for the State to review the initial permit applications for completeness, content, and compliance with applicable standards, regulations,



requirements, or practices. Fifth, the Department recommends that the measure should clarify that no work is to be allowed within a right-of-way of a state highway under the jurisdiction of the Highways Division without a permit issued pursuant to section 264-6, Hawaii Revised Statutes. Finally, the Department requests that airport properties be excluded from the measure; otherwise, the measure could impair the Airport Division's existing exclusive contract with an outside provider to provide wireless and DAS cellular-connect services at the public airports.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2651, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DONOVAN M. DELA CRUZ, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:
HB2651 HD2 SD1	ETT/CPH, WAM	4/5/18

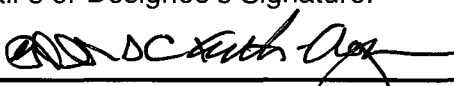
The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
GALUTERIA, Brickwood	X			
HARIMOTO, Breene				X
INOUYE, Lorraine R.				X
KAHELE, Kaiali'i	X			
KIDANI, Michelle N.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
WAKAI, Glenn	X			
TOTAL	9	0	0	2

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes