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# A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE.

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

1           SECTION 1. The legislature finds that the efficient  
2 deployment of broadband infrastructure and technology is  
3 important for Hawaii's future global connectivity and economic  
4 viability. Among the benefits afforded by an advanced broadband  
5 infrastructure system are increased and enhanced educational  
6 opportunities, telehealth capacity, safety and civil defense  
7 communications, economic competitiveness, consumer privileges,  
8 and tourism services.

9           To ensure that consumers throughout the State may benefit  
10 from these services as soon as possible, and to provide a fair  
11 and predictable process for the deployment of small wireless or  
12 wireline facilities, the legislature finds that it is important  
13 to regulate the processes for the deployment of small wireless  
14 or wireline facilities and small wireless or wireline facilities  
15 networks in a manner that preserves and protects public safety  
16 and fairness among competing uses of public space by the state  
17 and county governments and private companies.



1           The purpose of this Act is to facilitate the deployment of  
2 high-speed broadband infrastructure, including small wireless or  
3 wireline facilities and small wireless or wireline facilities  
4 networks. A collocation permit application, review, and  
5 application process is established by the Act for wireless and  
6 wireline providers proposing to install broadband infrastructure  
7 on utility poles or light standards owned solely by the State or  
8 solely by a county.

9           The legislature notes that this Act has a delayed  
10 implementation date, thus enabling interested stakeholders to  
11 continue discussions on the collocation permit application,  
12 review, and application process established by this Act, to  
13 ensure that this Act is consistent with federal law and provides  
14 for expedited, non-discriminatory deployment for all  
15 telecommunications providers. The delayed implementation date  
16 also provides an opportunity for this Act to be amended, if  
17 appropriate, during the regular session of 2018.

18           SECTION 2. The Hawaii Revised Statutes is amended by  
19 adding a new chapter to title 15 to be appropriately designated  
20 and to read as follows:



1 "CHAPTER

2 SMALL WIRELESS OR WIRELINE FACILITIES AND

3 SMALL WIRELESS OR WIRELINE FACILITIES NETWORKS

4 § -1 **Applicability.** This chapter relates to broadband  
5 equipment, micro wireless or wireline facilities, and the  
6 collocation of small wireless or wireline facilities and small  
7 wireless or wireline facilities networks, as defined in section  
8 27-41.1, and is applicable to state and county agencies.

9 § -2 **Definitions.** For the purposes of this chapter,  
10 "collocation", "general applicability", "light standard", "micro  
11 wireless or wireline facilities", "small wireless or wireline  
12 facilities", "small wireless or wireline facilities network",  
13 "utility pole", "wireless or wireline facility", "wireless or  
14 wireline provider", and "wireline backhaul" shall have the same  
15 meanings as in section 27-41.1. "Telecommunications service" or  
16 "telecommunications" shall have the same meaning as in section  
17 269-1.

18 § -3 **Collocation permits; application; review; approval.**

19 (a) A wireless or wireline provider proposing to install  
20 broadband infrastructure, small wireless or wireline facilities,



1 or small wireless or wireline facilities networks on a solely  
2 state-owned or solely county-owned utility pole or light  
3 standard shall submit an application for a permitted use permit  
4 to a state or county agency with jurisdiction over utility poles  
5 or light standards. The application shall include:

- 6 (1) A geographic description of the project area;
- 7 (2) A listing and description of the utility pole or light  
8 standard included in the project for the installation,  
9 mounting, operation, and placement of broadband  
10 infrastructure, including an assessment of the  
11 identifying information, location, and ownership of  
12 the listed utility pole or light standard and  
13 information about any ground disturbance;
- 14 (3) A description of the equipment associated with the  
15 facilities to be installed in the project area,  
16 including radio transceivers, antennas, coaxial or  
17 fiber-optic cables, power supplies, and related  
18 equipment, and the size, weight, and mounting height  
19 of the equipment to be installed on each utility pole  
20 or light standard; and

1 (4) A description of compliance with a structural loading  
2 analysis contemplated in the National Electrical  
3 Safety Code, for which the wireless or wireline  
4 provider shall presume that fifteen per cent of the  
5 load capacity of the pole is already in use;  
6 provided that a written request that contains the information in  
7 paragraphs (1) to (4) shall be deemed to be an application under  
8 this section.

9 (b) The appropriate state or county agency shall evaluate  
10 the impact of collocating the broadband infrastructure, small  
11 wireless or wireline facilities, or small wireless or wireline  
12 facilities networks described in the application to ensure that:

13 (1) The equipment installation on the utility pole or  
14 light standard is done in a manner to protect public  
15 health, public safety, and safe travel in the public  
16 rights-of-way and does not result in any violation of  
17 applicable federal requirements;

18 (2) The utility pole or light standard is able to bear the  
19 additional weight of the equipment and the equipment



1 is not a hazard or obstruction to the public's use of  
2 the right-of-way; and

3 (3) Consistent with Federal Communications Commission  
4 regulations, the project equipment, broadband  
5 infrastructure, small wireless or wireline facilities,  
6 or small wireless or wireline facilities networks do  
7 not interfere with the operability of public safety  
8 communications or traffic signals.

9 (c) A state or county agency may adopt rules that concern  
10 objective design standards for decorative poles or reasonable,  
11 feasible, and objective aesthetic requirements; provided that  
12 the standards and requirements do not prevent the collocation of  
13 small wireless or wireline facilities.

14 (d) No wireless or wireline provider may exclude other  
15 providers from utilizing solely state- or solely county-owned  
16 utility poles or light standards.

17 (e) Wireless or wireline providers shall avoid obtaining  
18 approvals to attach to utility poles or light standards they  
19 cannot or will not use within twenty-four months. Once a  
20 provider has obtained necessary approvals, if substantial



1 construction is not commenced within twelve months, attachment  
2 approvals may be rescinded. Nothing in this section restricts a  
3 provider from re-applying for approvals.

4 (f) Pursuant to section 27-45(a) for a state agency and  
5 section 46-89(a) for a county agency, the appropriate agency  
6 shall notify the applicant that:

- 7 (1) The permit is approved;
- 8 (2) The permit is approved with specified modifications;
- 9 (3) The application is returned with a list of specific  
10 questions seeking answers, clarification, or  
11 additional detailed information and resubmission of  
12 the application with answers to the questions is  
13 required; or
- 14 (4) The application is denied and the basis for the  
15 denial.

16 (g) A wireless or wireline provider proposing to install  
17 broadband infrastructure, small wireless or wireline facilities,  
18 or small wireless or wireline facilities networks on a structure  
19 that is neither a solely state-owned nor solely county-owned  
20 utility pole or light standard may submit an application for a



1 permitted use permit to the state or county agency with  
2 jurisdiction over that structure. The acceptance,  
3 consideration, and granting of such a request shall be solely at  
4 the discretion of the state or county agency with jurisdiction  
5 over the structure.

6 (h) The State or county may require, by rule or within a  
7 building or other safety code, that if after proper engineering  
8 analysis and supporting field tests, it is determined that  
9 project equipment and broadband infrastructure are connected to  
10 the cause of inoperability of public safety communications or  
11 traffic signals, the provider shall work with the State or  
12 county to determine a solution to the cause of the  
13 inoperability; provided that the solution is consistent with  
14 Federal Communications Commission rules."

15 SECTION 3. Chapter 27, Hawaii Revised Statutes, is amended  
16 by adding a new section to part VII to be appropriately  
17 designated and to read as follows:

18 "§27- Siting of small wireless or wireline facilities  
19 and small wireless or wireline facilities networks. (a) The  
20 State's treatment of and permitting process for the collocation

1 of small wireless or wireline facilities or small wireless or  
2 wireline facilities networks on solely state-owned utility poles  
3 and light standards for the deployment of high speed wireless or  
4 wireless broadband infrastructure shall be subject to the  
5 following provisions:

6 (1) Small wireless or wireline facilities and small  
7 wireless or wireline facilities networks shall be a  
8 permitted use, not subject to zoning review or the  
9 standards of a special or conditional use permit, in:

10 (A) All public rights-of-way and property, except  
11 state-owned airport property;

12 (B) All land designated as within the rural or  
13 agricultural district in accordance with chapter  
14 205; provided that for purposes of this  
15 subparagraph, permissible uses within the  
16 agricultural district conform to the definition  
17 of "wireless communication antenna" in accordance  
18 with section 205-4.5(a)(18); and

19 (C) All land designated as within the urban district  
20 in accordance with chapter 205;



- 1        (2) Small wireless or wireline facilities and small  
2        wireless or wireline facilities networks shall obtain  
3        a special or conditional use permit prior to  
4        collocation of small wireless or wireline facilities  
5        and small wireless or wireline facilities networks on  
6        land designated as within the conservation district in  
7        accordance with chapter 205;
- 8        (3) The State shall not deny access to wireless or  
9        wireline providers to collocate small wireless or  
10       wireline facilities or small wireless or wireline  
11       facilities networks on solely state-owned utility  
12       poles and light standards, except state-owned property  
13       within the jurisdiction of the departments of  
14       education, transportation, and public safety, and  
15       emergency management siren towers or related  
16       telecommunications towers used for emergency first  
17       responders; provided that this section shall not be  
18       construed to obviate or otherwise waive the right of  
19       the State to require a license, franchise, or other  
20       agreement to access the right-of-way more broadly to



1 install wireline broadband backhaul facilities, or to  
2 attach coaxial or fiber-optic cable between poles.

3 The State may require building permits or other non-  
4 discretionary permits and approvals for the

5 collocation of small wireless or wireline facilities  
6 and small wireless or wireline facilities networks;

7 provided that the permits and approvals are of general  
8 applicability. The State shall receive applications

9 for, and process and issue the permits and approvals  
10 in accordance with applicable laws, including section

11 27-45, and subject to the following requirements:

12 (A) An applicant shall not be required to perform any  
13 services, including restoration work not directly  
14 related to the collocation, to obtain approval of  
15 an application;

16 (B) An application may be denied if it does not meet  
17 applicable laws or rules regarding health and  
18 public safety, construction in the public rights-  
19 of-way, and building or electrical codes or  
20 standards; provided that the codes and standards



1           are of general applicability. The State shall  
2           document the basis for any denial, including the  
3           specific code provisions or standards on which  
4           the denial was based;

5           (C) An applicant for a small wireless or wireline  
6           facilities network of no more than ten individual  
7           facilities that are of substantially similar  
8           design being collocated on the same or materially  
9           the same type of utility pole or light standard  
10           shall be permitted, upon request by the  
11           applicant, to file a consolidated application and  
12           receive a single permit for the installation,  
13           construction, maintenance, and repair of a small  
14           wireless or wireline facilities network instead  
15           of filing separate applications for each  
16           individual small wireless or wireline facility.  
17           The State shall accept either one of the  
18           following types of consolidated applications, at  
19           the discretion of the applicant:



- 1            (i) For multiple small wireless or wireline
- 2            facilities in a three-square-mile geographic
- 3            area; or
- 4            (ii) Based upon a project; and
- 5            (D) Applications for permits for the collocation of
- 6            small wireless or wireline facilities and small
- 7            wireless or wireline facilities networks shall be
- 8            deemed applications for broadband-related
- 9            permits, as defined in section 27-45(i);
- 10          (4) The collocation of small wireless or wireline
- 11          facilities and small wireless or wireline facilities
- 12          networks on solely state-owned utility poles and light
- 13          standards located within the land identified in
- 14          paragraph (1)(A), (B), and (C), may be subject to
- 15          reasonable terms, conditions, and cost-based annual
- 16          recurring rates; provided that if the State charges a
- 17          fee for collocation on solely state-owned utility
- 18          poles or light standards, the fee shall be \$100 per
- 19          solely state-owned utility pole or light standard;



1       (5) If the solely state-owned utility pole or light  
2       standard is unable to support any of the additional  
3       equipment sought to be installed, and the wireless or  
4       wireline provider would like to collocate small  
5       wireless or wireline facilities or small wireless or  
6       wireline facilities networks on the solely state-owned  
7       utility pole or light standard, the wireless or  
8       wireline provider, at its sole cost, may install an  
9       upgraded utility pole or light standard subject to  
10       approval by the state agency; provided that the  
11       wireless or wireline provider shall be responsible for  
12       the maintenance and repairs to its facilities on the  
13       utility pole or light standard and for the costs of  
14       any damage caused to the utility pole or light  
15       standard by the wireless or wireline provider or its  
16       facilities until all of the equipment is removed and  
17       all damage is repaired; provided further that the  
18       State shall continue to own the upgraded utility pole  
19       or light standard;



- 1        (6) The State may reserve space for up to twenty-four
- 2        months on its light standards and utility poles where:
- 3        (A) Prior to a request for access having been made,
- 4        it had a bona fide development plan in place and
- 5        that the specific reservation of attachment
- 6        capacity is reasonably and specifically needed
- 7        for its planned use within one year of the
- 8        request;
- 9        (B) There is no available technological means of
- 10       increasing the capacity of the light standard or
- 11       utility pole for additional attachments; and
- 12       (C) It has attempted to negotiate a cooperative
- 13       solution to the capacity problem in good faith
- 14       with the party seeking the attachment;
- 15       (7) Small wireless and wireline facilities and small
- 16       wireless and wireline facilities network permits may
- 17       be revoked or rejected, in the State's discretion, to
- 18       protect contractual rights that have been granted or
- 19       will be granted by the State; and



1       (8) Except as necessary to protect public safety, the  
2       State shall not require a wireless or wireline  
3       provider to obtain a permit to:  
4       (A) Maintain, repair, or replace the wireless or  
5       wireline provider's small wireless or wireline  
6       facilities with facilities that are substantially  
7       the same, or smaller, in size, weight, volume,  
8       and height as the existing facilities; or  
9       (B) Install, place, maintain, operate, or replace  
10       micro wireless or wireline facilities that are  
11       suspended on messenger cables that are strung  
12       between existing utility poles in compliance with  
13       national safety codes;  
14       provided that nothing in this paragraph prohibits a  
15       requirement for a traffic mitigation plan; provided  
16       further that micro wireless or wireline facilities,  
17       small wireless or wireline facilities, and small  
18       wireless or wireline facilities networks installed on  
19       any solely state-owned utility pole or light standard  
20       shall be decommissioned if no longer in use, and



1 wireless and wireline providers shall remove from  
2 solely state-owned utility poles and light standards  
3 such micro wireless or wireline facilities, small  
4 wireless or wireline facilities, and small wireless or  
5 wireline facilities networks that are no longer used  
6 to provide service. The owner of the micro wireless  
7 or wireline facilities, small wireless or wireline  
8 facilities, or small wireless or wireline facilities  
9 network shall bear the costs of the removal.

10 In rendering a decision on an application for multiple  
11 small wireless or wireline facilities, the State may approve the  
12 application as to certain individual small wireless or wireline  
13 facilities while denying it as to others. The State's denial of  
14 any individual small wireless or wireline facility or subset of  
15 small wireless or wireline facilities within an application is  
16 not a basis to deny the application as a whole.

17 (b) Nothing in this section shall be construed to:

18 (1) Provide access rights to poles or structures owned by  
19 a state-regulated public utility;



1        (2) Impair access rights provided under title 47 United  
2        States Code section 224 or its implementing  
3        regulations;

4        (3) Relieve wireless infrastructure providers from  
5        existing requirements attached to state-regulated  
6        public utility-owned utility poles, including but not  
7        limited to compliance with the applicable provisions  
8        of Hawaii Administrative Rules chapter 6-73; or

9        (4) Limit the right of the State to require an  
10       indemnification agreement as a condition of a wireless  
11       or wireline provider's facilities attaching to a  
12       solely state-owned utility pole or light standard."

13       SECTION 4. Chapter 46, Hawaii Revised Statutes, is amended  
14 by adding a new section to part V to be appropriately designated  
15 and to read as follows:

16       "§46-     Siting of small wireless or wireline facilities  
17 and small wireless or wireline facilities networks. The  
18 county's treatment of and permitting process for the collocation  
19 of small wireless or wireline facilities or small wireless or  
20 wireline facilities networks on solely county-owned utility



1 poles and light standards for the deployment of high speed  
2 broadband infrastructure shall be subject to the following  
3 provisions:

4 (1) Small wireless or wireline facilities and small  
5 wireless or wireline facilities networks shall be a  
6 permitted use, not subject to zoning review or to the  
7 standards of a special or conditional use permit, in:

8 (A) All public rights-of-way and property;

9 (B) All land designated as within the rural or  
10 agriculture district in accordance with chapter  
11 205; provided that for the purposes of this  
12 subparagraph, permissible uses within the  
13 agricultural district conforms to the definition  
14 of "wireless communication antenna" in accordance  
15 with section 205-4.5(a)(18); and

16 (C) All land designated as within the urban district  
17 in accordance with chapter 205;

18 (2) Small wireless or wireline facilities and small  
19 wireless or wireline facilities networks shall obtain  
20 a special or conditional use permit prior to



1 collocation of small wireless or wireline facilities  
2 and small wireless or wireline facilities networks on  
3 land designated as within the conservation district in  
4 accordance with chapter 205;

5 (3) The county shall not deny access to wireless or  
6 wireline providers to collocate small wireless or  
7 wireline facilities or small wireless or wireline  
8 facilities networks on solely county-owned utility  
9 poles and light standards; provided that this section  
10 shall not be construed to obviate or otherwise waive  
11 the right of the county to require a license,  
12 franchise, or other agreement to access the right-of-  
13 way more broadly to install wireline broadband  
14 backhaul facilities, or to attach coaxial or fiber-  
15 optic cable between poles. The county may require  
16 building permits or other non-discretionary permits  
17 for the collocation of small wireless or wireline  
18 facilities and small wireless or wireline facilities  
19 networks; provided that the permits and approvals are  
20 of general applicability. The county shall receive



1 applications for, and process and issue the permits  
2 and approvals in accordance with applicable laws,  
3 including section 46-89, and subject to the following  
4 requirements:

5 (A) An applicant shall not be required to perform any  
6 services, including restoration work not directly  
7 related to the collocation, to obtain approval of  
8 an application;

9 (B) An application may be denied if it does not meet  
10 applicable laws or rules regarding health and  
11 public safety, construction in the public rights-  
12 of-way, and building or electrical codes or  
13 standards; provided that the codes and standards  
14 are of general applicability. The county shall  
15 document the basis for any denial, including the  
16 specific code provisions or standards on which  
17 the denial was based;

18 (C) An applicant for a small wireless or wireline  
19 facilities network of no more than ten individual  
20 facilities that are of substantially similar



1           design being collocated on the same or materially  
2           the same type of utility pole or light standard  
3           shall be permitted, upon request by the  
4           applicant, to file a consolidated application and  
5           receive a single permit for the installation,  
6           construction, maintenance, and repair of a small  
7           wireless or wireline facilities network instead  
8           of filing separate applications for each  
9           individual small wireless or wireline facility.  
10          The county shall accept either one of the  
11          following types of consolidated applications, at  
12          the discretion of the applicant:  
13          (i) For multiple small wireless or wireline  
14                   facilities in a three-square-mile geographic  
15                   area; or  
16          (ii) Based upon a project; and  
17          (D) Applications for permits for the collocation of  
18                   small wireless or wireline facilities and small  
19                   wireless or wireline facilities networks shall be



1                   deemed applications for broadband-related  
2                   permits, as defined in section 46-89(h);  
3       (4) The collocation of small wireless or wireline  
4                   facilities and small wireless or wireline facilities  
5                   networks on solely county-owned utility poles and  
6                   light standards located within the land identified in  
7                   paragraph (1)(A), (B), and (C), may be subject to  
8                   reasonable terms, conditions, and cost-based annual  
9                   recurring rates; provided that if the county charges a  
10                   fee for collocation on solely county-owned utility  
11                   poles or light standards, the fee shall be \$100 per  
12                   solely county-owned utility pole or light standard;  
13       (5) If the solely county-owned utility pole or light  
14                   standard is unable to support any of the additional  
15                   equipment sought to be installed, and the wireless or  
16                   wireline provider would like to collocate small  
17                   wireless or wireline facilities or small wireless or  
18                   wireline facilities networks on the solely county-  
19                   owned utility pole or light standard, the wireless or  
20                   wireline provider, at its sole cost, may install an



1 upgraded utility pole or light standard subject to  
2 approval by the appropriate agency; provided that the  
3 wireless or wireline provider shall be responsible for  
4 the maintenance and repairs to its facilities on the  
5 utility pole or light standard and for any damage  
6 caused to the utility pole or light standard by the  
7 wireless or wireline provider or its facilities until  
8 all of the equipment is removed and all damage is  
9 repaired; provided further that the county shall  
10 continue to own the upgraded utility pole or light  
11 standard;

12 (6) The county may reserve space for up to twenty-four  
13 months on its light standards and utility poles where:

14 (A) Prior to a request for access having been made,  
15 it had a bona fide development plan in place and  
16 that the specific reservation of attachment  
17 capacity is reasonably and specifically needed  
18 for its planned use within one year of the  
19 request;



1           (B) There is no available technological means of  
2           increasing the capacity of the light standard or  
3           utility pole for additional attachments; and

4           (C) It has attempted to negotiate a cooperative  
5           solution to the capacity problem in good faith  
6           with the party seeking the attachment;

7           (7) Small wireless and wireline facilities and small  
8           wireless and wireline facilities network permits may  
9           be revoked or rejected, in the county's discretion, to  
10           protect contractual rights that have been granted or  
11           will be granted by the county; and

12           (8) Except as necessary to protect public safety, the  
13           county shall not require a wireless or wireline  
14           provider to obtain a permit to:

15           (A) Maintain, repair, or replace the wireless or  
16           wireline provider's small wireless or wireline  
17           facilities and small wireless or wireline  
18           facilities networks with facilities that are  
19           substantially the same, or smaller, in size,



1           weight, volume, and height as the existing  
2           facilities; or  
3       (B) Install, place, maintain, operate, or replace  
4           micro wireless or wireline facilities that are  
5           suspended on messenger cables that are strung  
6           between existing utility poles in compliance with  
7           national safety codes;  
8       provided that nothing in this paragraph prohibits a  
9       requirement for a traffic mitigation plan; provided  
10       further that micro wireless or wireline facilities,  
11       small wireless or wireline facilities, and small  
12       wireless or wireline facilities networks installed on  
13       any solely county-owned utility pole or light standard  
14       shall be decommissioned if no longer in use. Wireless  
15       or wireline providers shall remove from solely county-  
16       owned utility poles or light standards such micro  
17       wireless or wireline facilities, small wireless or  
18       wireline facilities, and small wireless or wireline  
19       facilities networks that are no longer used to provide  
20       service. The owner of the micro wireless or wireline



1 facilities, small wireless or wireline facilities, or  
2 small wireless or wireline facilities network shall  
3 bear the costs of the removal.

4 In rendering a decision on an application for multiple  
5 small wireless or wireline facilities, the county may approve  
6 the application as to certain individual small wireless or  
7 wireline facilities while denying it as to others. A county's  
8 denial of any individual small wireless or wireline facility or  
9 subset of small wireless or wireline facilities within an  
10 application is not a basis to deny the application as a whole.

- 11 (b) Nothing in this section shall be construed to:
- 12 (1) Provide access rights to poles or structures solely-  
13 owned by a state-regulated public utility;
  - 14 (2) Impair access rights provided under title 47 United  
15 States Code section 224 or its implementing  
16 regulations;
  - 17 (3) Relieve wireless infrastructure providers from  
18 existing requirements attached to state-regulated  
19 public utility-owned utility poles, including but not



1 limited to compliance with the applicable provisions  
2 of Hawaii Administrative Rules chapter 6-73; or

3 (4) Limit the right of the county to require an  
4 indemnification agreement as a condition of a wireless  
5 or wireline provider's facilities attaching to a  
6 solely county-owned utility pole or light standard."

7 SECTION 5. Section 27-41.1, Hawaii Revised Statutes, is  
8 amended by adding fourteen new definitions to be appropriately  
9 inserted and to read as follows:

10 "Antenna" means communications equipment that transmits or  
11 receives electromagnetic radio frequency signals used in the  
12 provision of wireless services.

13 "Collocation" means the installation, mounting,  
14 maintenance, modification, operation, or replacement of wireless  
15 or wireless broadband service equipment on a utility pole or  
16 light standard. Collocation and co-location have the same  
17 meaning. Collocating is the act of causing a collocation.

18 "General applicability" means laws, regulations, or  
19 processes that apply objective requirements to all persons or  
20 services in a nondiscriminatory manner.



1       "Light standard" means a street light, light pole, lamp  
2 post, street lamp, lamp standard, or other raised source of  
3 light located inside the right-of-way of a public road or  
4 highway, or utility easement.

5       "Micro wireless or wireline facilities" means small  
6 wireless or wireline facilities that are no larger in dimension  
7 than twenty-four inches long, fifteen inches in width, and  
8 twelve inches in height, and that have an exterior antenna, if  
9 any, no longer than eleven inches.

10       "Rights-of-way" means the areas on, below, or above a  
11 public roadway, highway, street, sidewalk, alley, utility  
12 easement, or similar property.

13       "Small wireless or wireline facilities" means a wireless or  
14 wireline facility that meets the following qualifications:

- 15       (1) Each individual antenna, excluding the associated  
16 equipment, is individually no more than three cubic  
17 feet in volume, and all antennas on the structure  
18 total no more than six cubic feet in volume; and



- 1        (2) All other wireless equipment associated with the  
2        structure, excluding cable runs for the connection of  
3        power and other services, do not cumulatively exceed:
- 4        (A) Twenty-eight cubic feet for collocations on all  
5        non-pole structures, including buildings and  
6        water tanks, that can support fewer than three  
7        providers;
- 8        (B) Twenty-one cubic feet for collocations on all  
9        pole structures, including light poles, traffic  
10       signal poles, and utility poles, that can support  
11       fewer than three providers;
- 12       (C) Thirty-five cubic feet for non-pole collocations  
13       that can support at least three providers; or
- 14       (D) Twenty-eight cubic feet for pole collocations  
15       that can support at least three providers.
- 16       "Small wireless or wireline facilities network" means a  
17       group of interrelated small wireless or wireline facilities  
18       designed to deliver wireless communications service. "Small  
19       wireless or wireline facilities network" does not include wires  
20       or cables used for wireline backhaul or coaxial or fiber-optic



1 cable between utility poles, or that is otherwise not adjacent  
2 to or directly associated with a particular antenna.

3 "Telecommunications service" or "telecommunications" shall  
4 have the same meaning as in section 269-1.

5 "Utility pole" means a pole or similar structure that is  
6 used in whole or in part for communications service, electric  
7 service, lighting, traffic control, signage, or similar  
8 functions.

9 "Wireless or wireline facility":

10 (1) Means equipment at a fixed location that enables  
11 wireless communications between user equipment and a  
12 communications network, including:

13 (A) Equipment associated with wireless  
14 communications; and

15 (B) Radio transceivers, antennas, coaxial or fiber-  
16 optic cable, regular and backup power supplies,  
17 and comparable equipment, regardless of  
18 technological configuration; and

19 (2) Does not include:



- 1           (A) The structure or improvements on, under, or  
2           within which the equipment is collocated;
- 3           (B) Wireline backhaul facilities; or
- 4           (C) Coaxial or fiber-optic cable between utility  
5           poles or that is otherwise not adjacent to or  
6           directly associated with a particular antenna.

7           "Wireless or wireline provider" means a person or entity  
8           that is:

- 9           (1) A provider as defined in section 440J-1;
- 10          (2) A provider of wireless telecommunications service; or
- 11          (3) Authorized in accordance with chapter 269 to provide  
12          facilities-based telecommunications services in the  
13          State and builds, installs, operates, or maintains  
14          facilities and equipment used to provide fixed or  
15          mobile services through small wireless or wireline  
16          facilities.

17          "Wireline backhaul" means the transport of communications  
18          or information by wire from small wireless or wireline  
19          facilities to a network."



1 SECTION 6. Section 46-15.6, Hawaii Revised Statutes, is  
2 amended by adding thirteen new definitions to be appropriately  
3 inserted and to read as follows:

4 "Antenna" means communications equipment that transmits or  
5 receives electromagnetic radio frequency signals used in the  
6 provision of wireless services.

7 "Collocation" means the installation, mounting,  
8 maintenance, modification, operation, or replacement of wireless  
9 or wireless broadband service equipment on a utility pole or  
10 light standard. Collocation and co-location have the same  
11 meaning. Collocating is the act of causing a collocation.

12 "General applicability" means laws, regulations, or  
13 processes that apply objective requirements to all persons or  
14 services in a nondiscriminatory manner.

15 "Light standard" means a street light, light pole, lamp  
16 post, street lamp, lamp standard, or other raised source of  
17 light located inside the right-of-way of a public road or  
18 highway, or utility easement.

19 "Micro wireless or wireline facilities" means small  
20 wireless or wireline facilities that are no larger in dimension



1 than twenty-four inches long, fifteen inches in width, and  
2 twelve inches in height, and that have an exterior antenna, if  
3 any, no longer than eleven inches.

4 "Rights-of-way" means the areas on, below, or above a  
5 public roadway, highway, street, sidewalk, alley, utility  
6 easement, or similar property.

7 "Small wireless or wireline facilities" means a wireless or  
8 wireline facility that meet the following qualifications:

- 9 (1) Each individual antenna, excluding the associated  
10 equipment, is individually no more than three cubic  
11 feet in volume, and all antennas on the structure  
12 total no more than six cubic feet in volume; and  
13 (2) All other wireless equipment associated with the  
14 structure, excluding cable runs for the connection of  
15 power and other services, do not cumulatively exceed:  
16 (A) Twenty-eight cubic feet for collocations on all  
17 non-pole structures, including buildings and  
18 water tanks, that can support fewer than three  
19 providers;



1           (B) Twenty-one cubic feet for collocations on all  
2           pole structures, including light poles, traffic  
3           signal poles, and utility poles, that can support  
4           fewer than three providers;

5           (C) Thirty-five cubic feet for non-pole collocations  
6           that can support at least three providers; or

7           (D) Twenty-eight cubic feet for pole collocations  
8           that can support at least three providers;

9           "Small wireless or wireline facilities network" means a  
10          group of interrelated small wireless or wireline facilities  
11          designed to deliver wireless communications service. "Small  
12          wireless or wireline facilities network" does not include wires  
13          or cables used for wireline backhaul or coaxial or fiber-optic  
14          cable between utility poles, or that is otherwise not adjacent  
15          to or directly associated with a particular antenna.

16          "Utility pole" means a pole or similar structure that is  
17          used in whole or in part for communications service, electric  
18          service, lighting, traffic control, signage, or similar  
19          functions.

20          "Wireless or wireline facility":



1        (1) Means equipment at a fixed location that enables  
2        wireless communications between user equipment and a  
3        communications network, including:

4        (A) Equipment associated with wireless  
5        communications; and

6        (B) Radio transceivers, antennas, coaxial or fiber-  
7        optic cable, regular and backup power supplies,  
8        and comparable equipment, regardless of  
9        technological configuration; and

10       (2) Does not include:

11       (A) The structure or improvements on, under, or  
12       within which the equipment is collocated;

13       (B) Wireline backhaul facilities; or

14       (C) Coaxial or fiber-optic cable between utility  
15       poles or that is otherwise not adjacent to or  
16       directly associated with a particular antenna.

17       "Wireless or wireline provider" means a person or entity  
18       that is:

19       (1) A provider as defined in section 440J-1;

20       (2) A provider of wireless telecommunications service; or



1        (3) Authorized in accordance with chapter 269 to provide  
 2        facilities-based telecommunications services in the  
 3        State and builds, installs, operates, or maintains  
 4        facilities and equipment used to provide fixed or  
 5        mobile services through small wireless or wireline  
 6        facilities.

7        "Wireline backhaul" means the transport of communications  
 8        or information by wire from small wireless or wireline  
 9        facilities to a network."

10       SECTION 7. Section 205-2, Hawaii Revised Statutes, is  
 11       amended by amending subsection (c) to read as follows:

12       "(c) Rural districts shall include activities or uses as  
 13       characterized by low density residential lots of not more than  
 14       one dwelling house per one-half acre, except as provided by  
 15       county ordinance pursuant to section 46-4(c), in areas where  
 16       "city-like" concentration of people, structures, streets, and  
 17       urban level of services are absent, and where small farms are  
 18       intermixed with low density residential lots except that within  
 19       a subdivision, as defined in section 484-1, the commission for  
 20       good cause may allow one lot of less than one-half acre, but not



1 less than eighteen thousand five hundred square feet, or an  
 2 equivalent residential density, within a rural subdivision and  
 3 permit the construction of one dwelling on such lot; provided  
 4 that all other dwellings in the subdivision shall have a minimum  
 5 lot size of one-half acre or 21,780 square feet. Such petition  
 6 for variance may be processed under the special permit  
 7 procedure. These districts may include contiguous areas which  
 8 are not suited to low density residential lots or small farms by  
 9 reason of topography, soils, and other related characteristics.  
 10 Rural districts shall also include golf courses, golf driving  
 11 ranges, and golf-related facilities.

12 In addition to the uses listed in this subsection, rural  
 13 districts shall include geothermal resources exploration and  
 14 geothermal resources development, as defined under section  
 15 182-1, and wireless communication antenna, as defined under  
 16 section 204-4.5(a)(18), including small wireless or wireline  
 17 facilities or small wireless or wireline facilities networks, as  
 18 defined in sections 27-41.1 and 46-15.6, as permissible uses."

19 SECTION 8. Section 205-4.5, Hawaii Revised Statutes, is  
 20 amended by amending subsection (a) to read as follows:



1           "(a) Within the agricultural district, all lands with soil  
2 classified by the land study bureau's detailed land  
3 classification as overall (master) productivity rating class A  
4 or B and for solar energy facilities, class B or C, shall be  
5 restricted to the following permitted uses:

6           (1) Cultivation of crops, including crops for bioenergy,  
7                 flowers, vegetables, foliage, fruits, forage, and  
8                 timber;

9           (2) Game and fish propagation;

10          (3) Raising of livestock, including poultry, bees, fish,  
11                 or other animal or aquatic life that are propagated  
12                 for economic or personal use;

13          (4) Farm dwellings, employee housing, farm buildings, or  
14                 activities or uses related to farming and animal  
15                 husbandry. "Farm dwelling", as used in this  
16                 paragraph, means a single-family dwelling located on  
17                 and used in connection with a farm, including clusters  
18                 of single-family farm dwellings permitted within  
19                 agricultural parks developed by the State, or where



- 1 agricultural activity provides income to the family  
2 occupying the dwelling;
- 3 (5) Public institutions and buildings that are necessary  
4 for agricultural practices;
- 5 (6) Public and private open area types of recreational  
6 uses, including day camps, picnic grounds, parks, and  
7 riding stables, but not including dragstrips,  
8 airports, drive-in theaters, golf courses, golf  
9 driving ranges, country clubs, and overnight camps;
- 10 (7) Public, private, and quasi-public utility lines and  
11 roadways, transformer stations, communications  
12 equipment buildings, solid waste transfer stations,  
13 major water storage tanks, and appurtenant small  
14 buildings such as booster pumping stations, but not  
15 including offices or yards for equipment, material,  
16 vehicle storage, repair or maintenance, treatment  
17 plants, corporation yards, or other similar  
18 structures;
- 19 (8) Retention, restoration, rehabilitation, or improvement  
20 of buildings or sites of historic or scenic interest;



- 1           (9)   Agricultural-based commercial operations as described
- 2                    in section 205-2(d) (15);
- 3           (10)   Buildings and uses, including mills, storage, and
- 4                    processing facilities, maintenance facilities,
- 5                    photovoltaic, biogas, and other small-scale renewable
- 6                    energy systems producing energy solely for use in the
- 7                    agricultural activities of the fee or leasehold owner
- 8                    of the property, and vehicle and equipment storage
- 9                    areas that are normally considered directly accessory
- 10                  to the above-mentioned uses and are permitted under
- 11                  section 205-2(d);
- 12           (11)   Agricultural parks;
- 13           (12)   Plantation community subdivisions, which as used in
- 14                    this chapter means an established subdivision or
- 15                    cluster of employee housing, community buildings, and
- 16                    agricultural support buildings on land currently or
- 17                    formerly owned, leased, or operated by a sugar or
- 18                    pineapple plantation; provided that the existing
- 19                    structures may be used or rehabilitated for use, and
- 20                    new employee housing and agricultural support



1 buildings may be allowed on land within the  
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or  
4 former employees of the plantation who have a  
5 property interest in the land;

6 (B) The employee housing units not owned by their  
7 occupants shall be rented or leased at affordable  
8 rates for agricultural workers; or

9 (C) The agricultural support buildings shall be  
10 rented or leased to agricultural business  
11 operators or agricultural support services;

12 (13) Agricultural tourism conducted on a working farm, or a  
13 farming operation as defined in section 165-2, for the  
14 enjoyment, education, or involvement of visitors;  
15 provided that the agricultural tourism activity is  
16 accessory and secondary to the principal agricultural  
17 use and does not interfere with surrounding farm  
18 operations; and provided further that this paragraph  
19 shall apply only to a county that has adopted



1           ordinances regulating agricultural tourism under  
2           section 205-5;

3       (14)   Agricultural tourism activities, including overnight  
4           accommodations of twenty-one days or less, for any one  
5           stay within a county; provided that this paragraph  
6           shall apply only to a county that includes at least  
7           three islands and has adopted ordinances regulating  
8           agricultural tourism activities pursuant to section  
9           205-5; provided further that the agricultural tourism  
10          activities coexist with a bona fide agricultural  
11          activity. For the purposes of this paragraph, "bona  
12          fide agricultural activity" means a farming operation  
13          as defined in section 165-2;

14       (15)   Wind energy facilities, including the appurtenances  
15           associated with the production and transmission of  
16           wind generated energy; provided that the wind energy  
17           facilities and appurtenances are compatible with  
18           agriculture uses and cause minimal adverse impact on  
19           agricultural land;



1 (16) Biofuel processing facilities, including the  
2 appurtenances associated with the production and  
3 refining of biofuels that is normally considered  
4 directly accessory and secondary to the growing of the  
5 energy feedstock; provided that biofuel processing  
6 facilities and appurtenances do not adversely impact  
7 agricultural land and other agricultural uses in the  
8 vicinity.

9 For the purposes of this paragraph:

10 "Appurtenances" means operational infrastructure  
11 of the appropriate type and scale for economic  
12 commercial storage and distribution, and other similar  
13 handling of feedstock, fuels, and other products of  
14 biofuel processing facilities.

15 "Biofuel processing facility" means a facility  
16 that produces liquid or gaseous fuels from organic  
17 sources such as biomass crops, agricultural residues,  
18 and oil crops, including palm, canola, soybean, and  
19 waste cooking oils; grease; food wastes; and animal



1 residues and wastes that can be used to generate  
2 energy;

3 (17) Agricultural-energy facilities, including  
4 appurtenances necessary for an agricultural-energy  
5 enterprise; provided that the primary activity of the  
6 agricultural-energy enterprise is agricultural  
7 activity. To be considered the primary activity of an  
8 agricultural-energy enterprise, the total acreage  
9 devoted to agricultural activity shall be not less  
10 than ninety per cent of the total acreage of the  
11 agricultural-energy enterprise. The agricultural-  
12 energy facility shall be limited to lands owned,  
13 leased, licensed, or operated by the entity conducting  
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity  
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an  
19 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy  
2 facility.

3 "Agricultural-energy facility" means a facility  
4 that generates, stores, or distributes renewable  
5 energy as defined in section 269-91 or renewable fuel  
6 including electrical or thermal energy or liquid or  
7 gaseous fuels from products of agricultural activities  
8 from agricultural lands located in the State.

9 "Appurtenances" means operational infrastructure  
10 of the appropriate type and scale for the economic  
11 commercial generation, storage, distribution, and  
12 other similar handling of energy, including equipment,  
13 feedstock, fuels, and other products of agricultural-  
14 energy facilities;

15 (18) Construction and operation of wireless communication  
16 antennas[+], including small wireless or wireline  
17 facilities or small wireless or wireline facilities  
18 networks; provided that, for the purposes of this  
19 paragraph, "wireless communication antenna" means  
20 communications equipment that is either freestanding



1 or placed upon or attached to an already existing  
2 structure and that transmits and receives  
3 electromagnetic radio signals used in the provision of  
4 all types of wireless communications services;  
5 provided further that nothing in this paragraph shall  
6 be construed to permit the construction of any new  
7 structure that is not deemed a permitted use under  
8 this subsection; provided further that "small wireless  
9 or wireline facilities" and "small wireless or  
10 wireline facilities networks" shall have the same  
11 meanings as in sections 27-41.1 and 46-15.6;

12 (19) Agricultural education programs conducted on a farming  
13 operation as defined in section 165-2, for the  
14 education and participation of the general public;  
15 provided that the agricultural education programs are  
16 accessory and secondary to the principal agricultural  
17 use of the parcels or lots on which the agricultural  
18 education programs are to occur and do not interfere  
19 with surrounding farm operations. For the purposes of  
20 this paragraph, "agricultural education programs"



1 means activities or events designed to promote  
2 knowledge and understanding of agricultural activities  
3 and practices conducted on a farming operation as  
4 defined in section 165-2;

5 (20) Solar energy facilities that do not occupy more than  
6 ten per cent of the acreage of the parcel, or twenty  
7 acres of land, whichever is lesser or for which a  
8 special use permit is granted pursuant to section  
9 205-6; provided that this use shall not be permitted  
10 on lands with soil classified by the land study  
11 bureau's detailed land classification as overall  
12 (master) productivity rating class A unless the solar  
13 energy facilities are:

14 (A) Located on a paved or unpaved road in existence  
15 as of December 31, 2013, and the parcel of land  
16 upon which the paved or unpaved road is located  
17 has a valid county agriculture tax dedication  
18 status or a valid agricultural conservation  
19 easement;



1 (B) Placed in a manner that still allows vehicular  
2 traffic to use the road; and

3 (C) Granted a special use permit by the commission  
4 pursuant to section 205-6;

5 (21) Solar energy facilities on lands with soil classified  
6 by the land study bureau's detailed land  
7 classification as overall (master) productivity rating  
8 B or C for which a special use permit is granted  
9 pursuant to section 205-6; provided that:

10 (A) The area occupied by the solar energy facilities  
11 is also made available for compatible  
12 agricultural activities at a lease rate that is  
13 at least fifty per cent below the fair market  
14 rent for comparable properties;

15 (B) Proof of financial security to decommission the  
16 facility is provided to the satisfaction of the  
17 appropriate county planning commission prior to  
18 date of commencement of commercial generation;  
19 and



1 (C) Solar energy facilities shall be decommissioned  
2 at the owner's expense according to the following  
3 requirements:

4 (i) Removal of all equipment related to the  
5 solar energy facility within twelve months  
6 of the conclusion of operation or useful  
7 life; and

8 (ii) Restoration of the disturbed earth to  
9 substantially the same physical condition as  
10 existed prior to the development of the  
11 solar energy facility.

12 For the purposes of this paragraph, "agricultural  
13 activities" means the activities described in  
14 paragraphs (1) to (3);

15 (22) Geothermal resources exploration and geothermal  
16 resources development, as defined under section 182-1;  
17 or

18 (23) Hydroelectric facilities, including the appurtenances  
19 associated with the production and transmission of  
20 hydroelectric energy, subject to section 205-2;



1 provided that the hydroelectric facilities and their  
2 appurtenances:

3 (A) Shall consist of a small hydropower facility as  
4 defined by the United States Department of  
5 Energy, including:

6 (i) Impoundment facilities using a dam to store  
7 water in a reservoir;

8 (ii) A diversion or run-of-river facility that  
9 channels a portion of a river through a  
10 canal or channel; and

11 (iii) Pumped storage facilities that store energy  
12 by pumping water uphill to a reservoir at  
13 higher elevation from a reservoir at a lower  
14 elevation to be released to turn a turbine  
15 to generate electricity;

16 (B) Comply with the state water code, chapter 174C;

17 (C) Shall, if over five hundred kilowatts in  
18 hydroelectric generating capacity, have the  
19 approval of the commission on water resource  
20 management, including a new instream flow



1 standard established for any new hydroelectric  
2 facility; and

3 (D) Do not impact or impede the use of agricultural  
4 land or the availability of surface or ground  
5 water for all uses on all parcels that are served  
6 by the ground water sources or streams for which  
7 hydroelectric facilities are considered."

8 SECTION 9. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect on May 22, 2050;  
11 provided that this Act shall apply to permit applications filed  
12 with the State or county after January 1, 2019.

13



**Report Title:**

Broadband; Small Wireless or Wireline Facilities; Siting Process; State-owned and County-owned Utility Poles or Light Standards; Permits

**Description:**

Establishes a collocation permitting, application, review and approval process for telecommunications companies proposing to install broadband infrastructure on solely state-owned or solely county-owned utility poles or light standards. Establishes the siting process. Takes effect on 5/22/2050. Applies to permit applications filed with the State or county after 1/1/2019.  
(SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

