
A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE INFRASTRUCTURE.

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

1 SECTION 1. The legislature finds that access to reliable
2 high-speed broadband across the State and in every community
3 is essential to the well-being and economic realities of the
4 State's residents. The need for new and enhanced broadband
5 infrastructure is significant, highlighted by the devastating
6 impact of the coronavirus disease 2019. The lack of
7 accessibility to reliable high-speed broadband has had a
8 tremendous negative effect in many areas, but particularly
9 unserved communities. Insufficient broadband infrastructure
10 and access has hampered the ability of the State to deliver
11 consistent and meaningful distance learning for all students.
12 Telehealth services have replaced in-person doctor visits and
13 are now serving as a significant tool in providing remote
14 medical services to those who would otherwise be unable to
15 receive proper medical care.

16 The legislature further finds that reliable broadband
17 access has meant the difference between an employee being



1 able to work remotely or possibly facing unemployment. Online
2 access is also a critical tool for those seeking to access
3 social services such as unemployment claims, Supplemental
4 Nutrition Assistance Program benefits, vital records, and
5 other critical government services. The ability to provide
6 the services needed relies upon the existence of a robust and
7 extensive broadband infrastructure.

8 Increased access to broadband services in unserved areas
9 of the State would enhance Hawaii's overall economic
10 development, education, health care, and emergency services.
11 Making grants available for the deployment of broadband
12 infrastructure to unserved areas would encourage new private
13 investment in broadband infrastructure and move the State
14 toward universal access to broadband services.

15 The legislature strongly supports efforts to improve
16 access to broadband services for residents, consumers, and
17 businesses across the State. Although broadband coverage in
18 the State is widespread, additional investment must be made to
19 meet the needs in rural communities and enhance access for
20 those in communities that require immediate broadband
21 infrastructure.



1 The purpose of this Act is to facilitate the deployment
2 of last-mile broadband infrastructure in unserved areas of
3 the State by identifying and addressing any remaining
4 obstacles to full deployment of broadband infrastructure to
5 all areas of Hawaii. More specifically, this Act:

6 (1) Establishes the broadband infrastructure grant
7 program to award grants to extend the deployment of
8 facilities used to provide broadband service to
9 unserved areas of the State;

10 (2) Amends the Hawaii technology loan revolving fund by
11 changing it to the Hawaii broadband infrastructure
12 fund and changing the types of funds to be deposited
13 into the fund; and

14 (3) Authorizes the issuance of general obligation bonds
15 for the broadband infrastructure grant program.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to title 13 to be appropriately designated
18 and to read as follows:



1 "Shapefile" means a file format for storing, depicting, and
2 analyzing geospatial data depicting broadband coverage.

3 "Shapefile" includes several component files, including a main
4 file (.shp), index file (.shx), and dBASE table (.dbf).

5 "Unserved area" means a project area without access to
6 broadband service.

7 **§ -2 Broadband infrastructure grant program;**
8 **establishment.** There is established the broadband
9 infrastructure grant program within the department of business,
10 economic development, and tourism for administrative purposes.
11 The department shall receive and review grant applications and
12 may award grants for eligible projects pursuant to the program.

13 **§ -3 Eligible projects.** The department may award grants
14 for eligible projects; provided that on the date the application
15 is submitted, the area to be served by the project shall be an
16 unserved area; provided further that no funds shall be used to
17 support any project involving the upgrade of an existing
18 broadband plant by an applicant and shall not include any
19 portion of an area that is partially served by an existing
20 provider.



1 § -4 **Eligible applicants.** To be eligible for a grant,
2 an applicant shall:

3 (1) Commit to paying a minimum of forty per cent of the
4 total project costs out of the applicant's own funds;

5 (2) Be a non-governmental entity with demonstrated
6 experience in providing broadband service, broadband
7 infrastructure, or other communication services to
8 residential customers within the State; and

9 (3) Attest that the project does not jeopardize the
10 eligibility of federal funding.

11 § -5 **Applications.** (a) The department shall establish
12 an annual time period to commence an open process for submission
13 of applications for funding under the program. The time period
14 for submission shall be no less than sixty days and no more
15 than ninety days.

16 (b) The form of the application shall be as prescribed by
17 the department and shall include:

18 (1) Evidence demonstrating the applicant's experience and
19 ability to build, operate, and manage broadband
20 infrastructure servicing residential customers;



- 1 (2) A description of the project area, including a
- 2 shapefile identifying the proposed deployment;
- 3 (3) A description of the broadband infrastructure that is
- 4 proposed to be deployed, including facilities,
- 5 equipment, and network capabilities, including minimum
- 6 speed thresholds;
- 7 (4) Evidence, including certification from the applicant,
- 8 demonstrating the unserved nature of the project area;
- 9 (5) The number of households in each unserved area that
- 10 would gain access to broadband service as a result of
- 11 the project;
- 12 (6) The total cost and timeline for completion of the
- 13 project;
- 14 (7) The amount of matching funds that the applicant
- 15 proposes to contribute and a certification that no
- 16 portion of the matching funds are derived from any
- 17 state government grant, loan, or subsidy;
- 18 (8) Evidence demonstrating the economic and commercial
- 19 feasibility of the project;
- 20 (9) A list of all expected government authorizations,
- 21 permits, and other approvals required for the project



1 and a timeline for the applicant's acquisition of the
2 approvals; and

3 (10) Any other information deemed necessary by the
4 department.

5 § -6 **Review of applications; approval.** (a) Within five
6 business days following the last day of the time period for
7 submission of applications to the program, the department shall
8 make all of the applications available for review in a publicly
9 available electronic file posted on the department's website.

10 (b) The department shall treat any information in an
11 application or a challenge that is not publicly available as
12 confidential and containing trade secrets not subject to
13 disclosure under state law upon request by:

14 (1) An applicant for confidential treatment of an
15 application, except that in no event shall such
16 request for confidentiality prevent the publicly
17 available portion of the application from including
18 sufficient evidence to demonstrate the requirements of
19 section -5(b)(2) and -5(b)(4); or

20 (2) A challenging provider for confidential treatment of a
21 challenge submitted pursuant to this section.



1 (c) A broadband service provider that provides service
2 within or directly adjacent to a proposed project area may
3 submit a written challenge to any application within forty-five
4 days of the department making the applications available for
5 review pursuant to subsection (a). The challenge may:

6 (1) Dispute an applicant's certification that a proposed
7 project area is an unserved area or that no other
8 federal or state program provides funding that is
9 available to the applicant for a project for which
10 program support is sought;

11 (2) Attest to the challenging provider's existing or
12 planned provision of broadband service within the
13 applicant's proposed project area; or

14 (3) Attest that the project may jeopardize the eligibility
15 of federal funding for the challenging provider.

16 (d) In reviewing applications and any accompanying
17 challenge, the department shall review the proposed project
18 areas to ensure that all awarded funds are used to deploy
19 broadband infrastructure to unserved areas.

20 (e) The department shall award program grants based on a
21 scoring system that shall be released to the public at least



1 thirty days prior to the first day of the time period for
2 submission of applications. The scoring system shall give the
3 highest weight or priority to the following:

- 4 (1) Projects proposing to serve a larger unserved
5 geographic area;
- 6 (2) Applicants with more experience and technical ability
7 to successfully deploy and provide broadband service
8 and more financial resources available to finance the
9 project;
- 10 (3) Projects for which fewer government funds and less
11 support are necessary to deploy broadband
12 infrastructure in an economically feasible manner;
- 13 (4) Projects with a higher amount of matching funds
14 proposed to be committed by the applicant;
- 15 (5) High service speed thresholds proposed in the
16 application and high scalability of the broadband
17 infrastructure proposed to be deployed;
- 18 (6) Applicants with a high ability to leverage nearby or
19 adjacent broadband infrastructure to facilitate the
20 proposed deployment of service to households;



1 (7) Projects that do not duplicate any existing broadband
2 infrastructure in the project area; and

3 (8) Other factors the department determines to be
4 reasonable, appropriate, and consistent with the
5 purpose of facilitating the deployment of broadband
6 infrastructure to unserved areas.

7 § -7 **Departmental authority.** The department may:

8 (1) Following notice and an opportunity to cure, require
9 disgorgement of grant funds in response to an
10 applicant's pattern of failure to build-out a project
11 area in accordance with the timelines and milestones
12 set forth in its application;

13 (2) Consider an applicant's financial ability to complete
14 the project proposed in an application;

15 (3) Make reasonable requests for information necessary for
16 the oversight and administration of any project funded
17 pursuant to this chapter;

18 (4) Impose any new or additional regulatory requirements
19 on grant recipients, through grant agreements or any
20 other mechanism, in addition to the program



1 implementation rules expressly authorized in this
2 chapter; and

3 (5) Deny or cancel a project if the department finds the
4 project will impact federal funding opportunities.

5 § -8 Rules. (a) The department shall adopt rules
6 pursuant to chapter 91 to effectuate the purposes of this
7 chapter.

8 (b) The rules shall:

9 (1) Include reasonable oversight and reporting provisions
10 to ensure that grant moneys are used as intended; and

11 (2) Not impose any financial penalty or liquidated damages
12 provisions or provisions that are not reasonably
13 related to the deployment of broadband infrastructure
14 in the State in accordance with this chapter."

15 SECTION 3. Section 206M-15.6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§206M-15.6[+] Hawaii [~~technology loan revolving~~]
18 broadband infrastructure fund. There is established the Hawaii
19 [~~technology loan revolving~~] broadband infrastructure fund for
20 the purpose of investing in [~~technology development~~] broadband
21 infrastructure in [~~Hawaii~~] the State. The following shall be



1 deposited into the Hawaii [~~technology loan revolving~~] broadband
2 infrastructure fund:

- 3 (1) Appropriations from the legislature;
- 4 [~~(2) Moneys received as repayments of loans;~~
- 5 ~~(3) Investment earnings;~~
- 6 ~~(4) Royalties;~~
- 7 ~~(5) Premiums, or fees or equity charged by the~~
- 8 ~~corporation, or otherwise received by the corporation;~~
- 9 and

- 10 ~~(6) Loans that are convertible to equity;]~~
- 11 (2) Funds received from the federal government;
- 12 (3) Funds received from a county; and
- 13 (4) Funds received from the private sector;

14 provided that the total amount of moneys in the fund shall not
15 exceed [~~\$2,000,000~~] \$10,000,000 at the end of any fiscal year."

16 SECTION 4. Within twelve months of the effective date of
17 this Act, the department of business, economic development, and
18 tourism shall adopt rules pursuant to chapter 91 and
19 section -8, Hawaii Revised Statutes, to implement the
20 broadband infrastructure grant program; provided that any rules
21 adopted pursuant to this section shall include rules regarding



1 the submission, review, and approval of applications;
2 administration of the projects funded; and grant agreements
3 memorializing the award of funds.

4 SECTION 5. The director of finance is authorized to issue
5 general obligation bonds in the sum of \$ or so much
6 thereof as may be necessary and the same sum or so much thereof
7 as may be necessary is appropriated for fiscal year 2021-2022
8 for the purpose of the broadband infrastructure grant program
9 established by this Act.

10 SECTION 6. The appropriation made for the capital
11 improvement project authorized by this Act shall not lapse at
12 the end of the fiscal biennium for which the appropriation is
13 made; provided that all moneys from the appropriation
14 unencumbered as of June 30, 2024, shall lapse as of that date.

15 SECTION 7. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Broadband Infrastructure Grant Program; Unserved Areas; Hawaii
Broadband Infrastructure Fund; General Obligation Bonds;
Appropriation

Description:

Establishes the broadband infrastructure grant program to award grants to applicants to extend deployment of infrastructure used to provide broadband service to unserved areas of the State. Amends the Hawaii technology loan revolving fund to change it to the Hawaii broadband infrastructure fund, including the types of funds deposited into the fund. Authorizes the issuance of general obligation bonds for the broadband infrastructure grant program. Effective 7/1/2050. (HD2)

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