

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO TELEWORK.

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

1           SECTION 1. The legislature finds that the global  
2 coronavirus disease 2019, or COVID-19, pandemic has placed a  
3 historic strain on the continuity of state and local government  
4 operations. As the leaders were forced to choose between  
5 providing critical services in a traditional manner and the  
6 health and safety of their employees, agencies across the State  
7 and counties scrambled to enact adequate telework policies to  
8 enable the provision of essential services. As the largest  
9 employers in the State, the State of Hawaii and the counties  
10 faced a significant risk of contributing to the State's growing  
11 infection count had they not quickly moved to employee telework  
12 policies.

13           The legislature further finds that even in times of non-  
14 emergency, the strain on the State's infrastructure, including  
15 its roadways and facilities, could be significantly reduced if  
16 broad, comprehensive, and coordinated telework policies were  
17 embraced throughout state and local governments. In addition,



1 these efforts would align with the State's larger goals of  
2 reducing carbon emissions through the reduction of overall  
3 traffic congestion on the State's roadways.

4 The legislature finds that the federal government took a  
5 momentous step in 2010 to enact extensive telework policies  
6 throughout its executive agencies. The enacting legislation,  
7 H.R. 1722 (2010), received broad bipartisan support in the  
8 United States Congress, including unanimous support from the  
9 Hawaii delegation, which included the late Senator Daniel K.  
10 Akaka, and late President Pro Tempore Daniel K. Inouye. The  
11 measure would go on to be signed into law by President Barack  
12 Obama.

13 Accordingly, the purpose of this Act is to mirror the  
14 actions of the federal government in its embrace of telework as  
15 a means of more effectively delivering government services,  
16 enhancing its continuity of operations in times of emergency,  
17 and reducing its strain on infrastructure and resources.

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



1 "CHAPTER

2 TELEWORK

3 § -1 Definitions. As used in this chapter:

4 "Department" has the same meaning as defined in section  
5 76-11.

6 "Employee" has the same meaning as defined in section  
7 76-11.

8 "Telework" or "teleworking" means a flexible work  
9 arrangement under which an employee performs the duties and  
10 responsibilities of that employee's position, and other  
11 authorized activities, from an approved worksite other than the  
12 location from which the employee would otherwise work.

13 § -2 Department requirements. (a) Not later than one  
14 hundred eighty days after the date of enactment of this chapter,  
15 the head of each department shall:

- 16 (1) Establish a policy under which eligible employees of  
17 the department may be authorized to telework;
- 18 (2) Determine the eligibility for all employees of the  
19 department to participate in telework; and
- 20 (3) Notify all employees of the department of the  
21 employees' eligibility to telework.

- 1 (b) The policy described in subsection (a) shall:
- 2 (1) Ensure that telework does not diminish employee
- 3 performance or departmental operations;
- 4 (2) Require a written agreement that:
- 5 (A) Is entered into between a department manager and
- 6 an employee authorized to telework, that outlines
- 7 the specific work arrangement that is agreed to;
- 8 and
- 9 (B) Is mandatory in order for any employee to
- 10 participate in telework;
- 11 (3) Provide that an employee may not be authorized to
- 12 telework if the performance of that employee does not
- 13 comply with the terms of the written agreement between
- 14 the department manager and that employee;
- 15 (4) Except in emergency situations as determined by the
- 16 head of a department, not apply to any employee of the
- 17 department whose official duties require on a daily
- 18 basis:
- 19 (A) Direct handling of secure materials determined to
- 20 be inappropriate for telework by the department
- 21 head; or



1 (B) On-site activity that cannot be handled remotely  
2 or at an alternate worksite; and

3 (5) Be incorporated as part of the continuity of  
4 operations plans of the department in the event of an  
5 emergency.

6 § -3 Training and monitoring. (a) The head of each  
7 department shall ensure that:

8 (1) An interactive telework training program is provided  
9 to:

10 (A) Employees eligible to participate in the telework  
11 program of the department; and

12 (B) All managers of teleworkers;

13 (2) Except as provided under subsection (b), an employee  
14 has successfully completed the interactive telework  
15 training program before that employee enters into a  
16 written agreement to telework described under  
17 subsection 2(b)(2);

18 (3) Teleworkers and non-teleworkers are treated the same  
19 for purposes of:

20 (A) Periodic appraisals of job performance of  
21 employees;



1 (B) Training, rewarding, reassigning, promoting,  
2 reducing in grade, retaining, and removing  
3 employees;

4 (C) Work requirements; or

5 (D) Other acts involving managerial discretion; and

6 (4) When determining what constitutes diminished employee  
7 performance, the department shall consult any  
8 performance management guidelines of the department of  
9 human resources development issued pursuant to  
10 section -4.

11 (b) The head of a department may provide for an exemption  
12 from the training requirements under subsection (a), if the head  
13 of that department determines that the training would be  
14 unnecessary because the employee is already teleworking under a  
15 work arrangement in effect before the date of enactment of this  
16 chapter.

17 § -4 Policy and support. (a) Each department shall  
18 consult with the department of human resources development in  
19 developing telework policies.

20 (b) The department of human resources development shall:



1 (1) Provide policy and policy guidance for telework in the  
2 areas of pay and leave, departmental closure,  
3 performance management, official worksite, recruitment  
4 and retention, and accommodations for employees with  
5 disabilities;

6 (2) Assist each department in establishing appropriate  
7 qualitative and quantitative measures and teleworking  
8 goals; and

9 (3) Consult with:

10 (A) The Hawaii emergency management agency on policy  
11 and policy guidance for telework in the areas of  
12 continuation of operations and long-term  
13 emergencies; and

14 (B) The department of accounting and general services  
15 on policy and policy guidance for telework in the  
16 areas of telework centers, travel, technology,  
17 equipment, and dependent care.

18 (c) The director of human resources development, in  
19 coordination with the office of enterprise technology services  
20 and department of accounting and general services, shall issue  
21 guidelines not later than one hundred eighty days after the date



1 of the enactment of this chapter to ensure the adequacy of  
2 information and security protections for information and  
3 information systems used while teleworking. Guidelines issued  
4 under this subsection shall, at a minimum, include requirements  
5 necessary to:

- 6 (1) Control access to departmental information and  
7 information systems;
- 8 (2) Protect departmental information, including personally  
9 identifiable information, and information systems;
- 10 (3) Limit the introduction of vulnerabilities;
- 11 (4) Protect information systems not under the control of  
12 the department that are used for teleworking;
- 13 (5) Safeguard wireless and other telecommunications  
14 capabilities that are used for teleworking; and
- 15 (6) Prevent inappropriate use of official time or  
16 resources.

17 (d) Each department shall incorporate telework into the  
18 continuity of operations plan of that department; provided that  
19 during any period that a department is operating under a  
20 continuity of operations plan, that plan shall supersede any  
21 telework policy.





- 1 (e) The department of human resources development shall:
- 2 (1) Maintain a central telework website; and
- 3 (2) Include the following information on the central
- 4 telework website:
- 5 (A) Telework links;
- 6 (B) Announcements;
- 7 (C) Guidance developed by the department of human
- 8 resources development; and
- 9 (D) Not later than ten business days after the date
- 10 of submission, guidance submitted to the
- 11 department of human resources development by the
- 12 Hawaii emergency management agency and department
- 13 of accounting and general services.
- 14 (f) Not later than one hundred twenty days after the date
- 15 of the enactment of this chapter, the director of human
- 16 resources development, in coordination with the office of
- 17 enterprise technology services, and the department of accounting
- 18 and general services, shall issue policy guidance requiring
- 19 that, when purchasing computer systems, each department purchase
- 20 computer systems that enable and support telework, unless the



1 head of the department determines that there is a mission-  
2 specific reason not to do so.

3 § -5 Telework managing officer. (a) The head of each  
4 department shall designate an employee of the department as the  
5 telework managing officer. The telework managing officer shall  
6 be established within each department's applicable human  
7 resources division.

8 (b) The telework managing officer shall:

9 (1) Develop and implement policies related to departmental  
10 telework programs;

11 (2) Serve as:

12 (A) An advisor for departmental leadership, including  
13 the applicable human resources officer;

14 (B) A resource for managers and employees; and

15 (C) A primary departmental point of contact for the  
16 department of human resources development on  
17 telework matters; and

18 (3) Perform other duties as the applicable delegating  
19 authority may assign.



1 (c) The telework managing officer of a department shall be  
2 a senior official of the department who has direct access to the  
3 head of the department.

4 (d) Nothing in this section shall be construed to prohibit  
5 an individual who holds another office or position in a  
6 department from serving as the telework managing officer for  
7 that department under this chapter.

8 § -6 Reports. The department of human resources  
9 development shall submit an annual report to the legislature no  
10 later than twenty days prior to the convening of each regular  
11 session, which shall include the following:

12 (1) The degree of participation by employees of each  
13 department in teleworking during the period covered by  
14 the report, including the degree of participation in  
15 each bureau, division, or other major administrative  
16 unit of that department, including:

17 (A) The total number of employees in the department;

18 (B) The number and percent of employees in the  
19 department who are eligible to telework; and

20 (C) The number and percent of eligible employees in  
21 the department who are teleworking:



- 1           (i) Three or more days per pay period;
- 2           (ii) One or two days per pay period;
- 3           (iii) Once per month; and
- 4           (iv) On an occasional, episodic, or short-term
- 5                 basis;
- 6       (2) The method for gathering telework data in each
- 7           department;
- 8       (3) For any department in which the total number of
- 9           employees has increased or decreased by ten per cent
- 10           or greater from the preceding year, the reasons for
- 11           the positive or negative variation;
- 12       (4) The departmental goal for increasing participation to
- 13           the extent practicable or necessary for the next
- 14           reporting period, as indicated by the percent of
- 15           eligible employees teleworking in each frequency
- 16           category described under subparagraph (1)(C);
- 17       (5) An explanation of whether the department met the goals
- 18           for the last reporting period and, if the department
- 19           failed to meet these goals, the actions taken to
- 20           identify and eliminate any barriers to maximizing
- 21           telework opportunities for the next reporting period;



- 1           (6) An assessment of the progress each department has made
- 2                   in meeting departmental participation rate goals
- 3                   during the reporting period, and other departmental
- 4                   goals relating to telework, including the impact of
- 5                   telework on:
- 6                   (A) Emergency readiness;
- 7                   (B) Energy use;
- 8                   (C) Recruitment and retention;
- 9                   (D) Performance;
- 10                  (E) Productivity; and
- 11                  (F) Employee attitudes and opinions regarding
- 12                   telework; and
- 13           (7) The best practices in departmental telework programs.

14           **§ -7 Telework research.** (a) The director of human  
15 resources development shall:

- 16           (1) Research the utilization of telework by public and
- 17                   private sector entities that identify best practices
- 18                   and recommendations for the State;
- 19           (2) Review the outcomes associated with an increase in
- 20                   telework, including the effects of telework on energy
- 21                   consumption, job creation and availability, urban

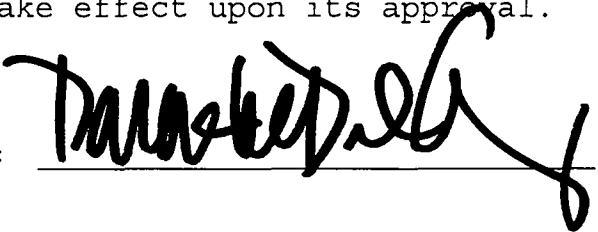
1 transportation patterns, and the ability to anticipate  
2 the dispersal of work during periods of emergency;  
3 provided that the director of human resources  
4 development may require the cooperation of any  
5 relevant subject matter department as the director  
6 deems necessary to effectuate this subsection; and

7 (3) Make any studies or reviews performed under this  
8 subsection available to the public.

9 (b) The director of human resources development may enter  
10 into contracts to carry out this section pursuant to chapter  
11 103D."

12 SECTION 3. This Act shall take effect upon its approval.

13

INTRODUCED BY: 



# S.B. NO. 234

**Report Title:**

Department of Human Resources Development; Telework; Policies

**Description:**

Requires that each state department, board, commission, or agency develop policies under which eligible employees may be authorized to telework.

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

