
A BILL FOR AN ACT

RELATING TO BROADBAND.

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

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PART I

SECTION 1. The legislature finds that the provision of equitable and robust access to broadband continues to be among the State's most pressing challenges. Hawaii needs to invest in open access, carrier-neutral cable landing infrastructure to attract transpacific fiber optic cable companies and expand its fiber connectivity to the world and throughout the islands, particularly in rural, underserved, and unserved communities, to achieve the digital equity necessary to build a resilient digital economy. Attracting partners with the necessary technical expertise and resources can develop Hawaii into a strategic communications and knowledge hub in the Pacific. This hub would incorporate a robust global communications network and provide cloud platforms to establish the next generation applications, such as artificial intelligence and smart communities, in Hawaii.



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1 The legislature further finds that to build a robust
2 broadband infrastructure, the State must act quickly to take
3 advantage of various federal and private funds available this
4 year. For example, the 2021 federal Consolidated Appropriations
5 Act earmarks:

6 (1) At least \$30,000,000 for the department of Hawaiian
7 home lands;

8 (2) \$3,200,000,000 nationally in an emergency broadband
9 benefit for low-income Americans to get connected or
10 remain connected to broadband;

11 (3) \$250,000,000 nationally for a new telehealth pilot
12 program;

13 (4) \$300,000,000 for a national grant program to fund
14 broadband in rural areas; and

15 (5) \$65,000,000 for the improvement of the nation's
16 broadband maps.

17 The legislature notes that the first phase of deployment of
18 these federal funds, in part, supports the South American
19 Pacific Link, a transpacific fiber cable project that would
20 connect Hawaii to South America, Central America, and the east
21 coast of the continental United States. Additionally, over



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1 \$100,000,000 is available from the U.S. Department of
2 Transportation Federal Highway Administration to address the
3 broadband capacity to support telecommuting through pilot
4 projects focused on building broadband infrastructure.

5 Accordingly, the purpose of this Act is to ensure that the
6 State takes full advantage of available funds to build the
7 broadband infrastructure necessary to sustain interconnectivity
8 throughout islands by:

- 9 (1) Establishing a Hawaii broadband infrastructure
10 authority to oversee broadband infrastructure in the
11 State;
- 12 (2) Strengthen and clarify the Hawaii broadband and
13 digital equity office's role in the broadband access
14 and digital equity; and
- 15 (3) Appropriate funds for the establishment of the
16 authority and for broadband infrastructure across the
17 State.

18 PART II

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



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"CHAPTER

BROADBAND INFRASTRUCTURE AUTHORITY

§ -1 **Short title.** This chapter may be cited as the Hawaii Broadband Infrastructure Authority Act.

§ -2 **Definitions.** As used in this chapter:

"Advanced communications technology infrastructure" means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability and wireless service coverage.

"Authority" means the Hawaii broadband infrastructure authority.

"Board" means the Hawaii broadband infrastructure authority board.

"Broadband service" shall have the same meaning as "broadband access or broadband service" in section 440J-1.

"Project" means real property, personal property, equipment, fixtures, materials, wires, cables, labor and other improvements necessary and proper for the provision of advanced communications technology infrastructure.



1 § -3 **State connectivity goals.** The goals of the State
2 related to connectivity are that:

3 (1) High-speed connectivity be universally available in
4 the State to all residents, businesses, and community
5 anchor institutions;

6 (2) There be secure, affordable, reliable, competitive,
7 and sustainable forward-looking advanced
8 communications technology infrastructure that meets
9 current and future needs;

10 (3) All residents, businesses, and institutions in the
11 State are able to take full advantage of the economic,
12 health, educational, and other opportunities available
13 through connectivity services; and

14 (4) Existing public and private infrastructure be used
15 effectively and efficiently in the public interest to
16 provide advanced communications technology
17 infrastructure in all areas of the State.

18 § -4 **Hawaii broadband infrastructure authority;**
19 **establishment; board; membership.** (a) The Hawaii broadband
20 infrastructure authority is established as a body corporate and
21 politic and a public instrumentality of the State, to oversee

1 and manage public advanced technology infrastructure. The
2 exercise of the powers conferred by this chapter to the
3 authority is deemed and held to be the performance of essential
4 governmental functions. The authority shall be administratively
5 attached to the department of commerce and consumer affairs.

6 (b) The authority shall consist of a board composed of the
7 following members:

8 (1) The following seven members appointed by the governor
9 as provided in section 26-34:

10 (A) Three members who possess expertise in advanced
11 communications technology infrastructure or
12 communications service, including expertise in
13 network design, network operations, and middle
14 mile infrastructure;

15 (B) One member representing rural communities in the
16 State;

17 (C) One member who possesses expertise in banking or
18 financial lending, including expertise in the
19 provision of loans or other capital investments
20 for infrastructure deployment in the State;



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- 1 (D) One member who possesses expertise in education
- 2 system needs; and
- 3 (E) One member who possesses expertise in telehealth
- 4 delivery and telehealth system needs; and
- 5 (2) Four ex officio voting members, or their designees, as
- 6 follows:
- 7 (A) The director of business, economic development,
- 8 and tourism;
- 9 (B) The president of the University of Hawaii;
- 10 (C) The director of finance; and
- 11 (D) The chief information officer.

12 § -5 **Terms; reappointments; vacancies; chair.** The

13 appointed members shall serve three-year staggered terms to be

14 determined by the governor; provided that the initial

15 appointments shall be as follows:

- 16 (1) Two members shall serve a one-year term;
- 17 (2) Two members shall serve a two-year term; and
- 18 (3) Three members shall serve a three year term.

19 Members appointed by the governor are eligible for

20 reappointment. If a member appointed by the governor fails to

21 serve until the expiration of the member's term, the governor



1 may appoint a replacement member for the remainder of that
2 member's term. The board shall select one member to serve as
3 chair of the authority.

4 § -6 **Executive director.** Upon the recommendation of the
5 board of the authority, the governor shall appoint an executive
6 director of the authority as provided in section 26-34. The
7 executive director shall serve a four-year term and be eligible
8 for reappointment. The executive director shall manage the
9 authority's programs, services, staff, and shall perform other
10 duties the authority considers appropriate. The executive
11 director shall report to the board of the authority on matters
12 and form and at times as defined in the authority's bylaws and
13 rules.

14 § -7 **Officers; quorum.** The authority may elect a
15 secretary and a treasurer. Six members of the board shall
16 constitute a quorum, and the affirmative vote of six members
17 shall be necessary for any action of the authority.

18 § -8 **Remote participation by members.** A member of the
19 authority may participate in a meeting of the authority and place
20 a vote electronically or telephonically as long as members of
21 the public have an opportunity to listen to the deliberations



1 and otherwise participate in or observe the proceedings of the
2 authority.

3 **§ -9 Indemnification.** A member of the authority, while
4 acting within the scope of this chapter, shall not be subject to
5 any personal liability resulting from the exercise or carrying
6 out of any of the authority's purposes or powers. Each member
7 of the authority shall be indemnified by the authority against
8 expenses actually and necessarily incurred by the member in
9 connection with the defense of any action or proceeding in which
10 the member is made a party by reason of being or having been a
11 member of the authority and against any final judgment rendered
12 against the member in that action or proceeding.

13 **§ -10 Conflicts.** A member of the authority may not
14 participate in any decision on any contract entered into by the
15 authority under this chapter if that member has any interest,
16 direct or indirect, in any firm, partnership, corporation, or
17 association that is party to the contract. The interest must be
18 disclosed to the authority in writing and must be set forth in
19 the minutes of the authority. Members shall file an annual
20 conflict of interest disclosure report in a form to be
21 determine in the rules.



1 § -11 Powers and duties of the authority. (a) The
2 authority may:

- 3 (1) Sue and be sued;
- 4 (2) Have a seal and alter the same at pleasure;
- 5 (3) Make and execute contracts and other instruments
6 necessary or convenient to the exercise of its powers;
- 7 (4) Adopt bylaws and rules in accordance with chapter 91
8 for its organization, internal management, and to
9 carry into effect its purposes, powers, and programs;
- 10 (5) Notwithstanding any law to the contrary, establish and
11 collect fees for the use of any project, equipment, or
12 services and for administrative expenses incurred by
13 the authority;
- 14 (6) Acquire real or personal property including rights or
15 easements, on either a temporary or long-term basis by
16 gift, purchase, transfer, foreclosure, lease or
17 otherwise; to improve, hold, sell with or without
18 public bidding, assign, lease, rent, encumber,
19 mortgage or otherwise dispose of any real or personal
20 property, any interest in real or personal property or
21 mortgage interests owned or in its control, custody or



1 possession; and to release or relinquish any right,
2 title claim, lien, interest, easement or demand,
3 however acquired, including upon threat of
4 foreclosure;
5 (7) Acquire rights of way;
6 (8) Prepare and plan projects and attendant facilities;
7 (9) Improve and equip project and attendant facilities;
8 (10) Incur debts;
9 (11) Maintain, reconstruct, and operate attendant
10 facilities and infrastructure;
11 (12) Accept federal funds or other assistance;
12 (13) Fix and collect fees;
13 (14) Enter into agreements with and to accept loans, aid,
14 contributions, grants and the cooperation or
15 assistance of the United States, or any agency of the
16 United States, or of the State or any agency or
17 governmental subdivision in furtherance of the
18 purposes of this chapter, including the development
19 and financing of a project, and to do all things
20 necessary in order to avail the authority of those



1 agreements, loans, aid, contributions, grants and
2 cooperation;

3 (15) Regulate and oversee broadband infrastructure
4 including reduce barriers to fiber landing in Hawaii;

5 (16) Manage or operate real or personal property;

6 (17) To appear on the authority's own behalf before boards,
7 commissions, departments or agencies of a municipality,
8 the State, or the United States;

9 (18) Lease or rent facilities or equipment used to transmit
10 voice, data, or video signals;

11 (19) Invest any funds not needed for immediate use,
12 including any funds held in reserve, in property or in
13 securities in which fiduciaries in the State may
14 legally invest funds; and

15 (20) Hire staff.

16 (b) In addition to other powers conferred upon it, the
17 authority may do all things necessary and convenient to carry
18 out the powers expressly provided in this chapter.

19 § -12 Rights of way; projects and facilities. (a) The
20 authority may develop, lease or otherwise acquire, own, hold,
21 dispose of and encumber conduit, fiber, rights of way, and other



1 real and personal property related to broadband infrastructure
2 that shall be necessary or convenient to the fulfillment of such
3 purposes.

4 (b) The authority may prepare or cause to be prepared
5 plans, specifications, designs, and estimates of costs for the
6 construction and equipping of a project and attendant facilities
7 and from time to time modify or cause to be modified those
8 plans, specifications, designs, or estimates.

9 (c) The authority may by contract or contract to
10 construct, acquire, alter, repair, reconstruct, rehabilitate,
11 improve, and equip a project and necessary and usual attendant
12 facilities.

13 § -13 **Collection of data.** (a) Subject to the
14 provisions of this section, the authority may collect data from
15 communications service providers and any wireless providers that
16 own or operate advanced communications technology infrastructure
17 in the State concerning infrastructure deployment and costs,
18 revenues, and subscribership.

19 (b) If the authority, on its own or upon request of any
20 person or entity, determines that public access to specific
21 information about communications service providers or wireless



1 providers in the State could compromise the security of public
2 utility systems to the detriment of the public interest or that
3 specific information is of a competitive or proprietary nature,
4 the authority shall issue an order that sets forth its
5 designation of the information as confidential. Information
6 that may be designated as confidential pursuant to this
7 subsection includes network diagrams. The authority may
8 designate information as confidential under this subsection only
9 to the minimum extent necessary to protect the public interest
10 and the legitimate competitive or proprietary interests of a
11 communications service provider or a wireless provider. The
12 authority may not designate any information as confidential
13 under this subsection until it has adopted rules to implement
14 this subsection.

15 (c) A communications service provider or a wireless
16 provider may request that information provided to the authority
17 that the provider requests be designated as confidential under
18 subsection (a) not be viewed by those members of the authority
19 who could gain a competitive advantage from viewing the
20 information. Upon such a request, the authority shall ensure
21 that the information provided is viewed only by those members of



1 the authority and staff who do not stand to gain a competitive
2 advantage and that there are adequate safeguards to protect that
3 information from members of the authority who could gain a
4 competitive advantage from viewing the information.

5 **§ -14 Legislative oversight.** (a) No later than
6 January 15, 2023, and annually thereafter, the authority shall
7 provide a report to the legislature with the following
8 information:

- 9 (1) The budget of the authority;
- 10 (2) Documents the activities of the authority, including a
11 detailed description of the progress toward the state
12 connectivity goals in section -3;
- 13 (3) A listing of any investments of money in the
14 authority, while maintaining confidentiality for
15 organizations working with the authority; and
- 16 (4) An analysis of the availability of communications
17 services and advanced communications technology
18 infrastructure, including an analysis of the
19 competitive market in the State for communications
20 services and advanced communications technology
21 infrastructure, and whether the communications



1 services provided in the State are reasonably
2 comparable to services provided regionally and
3 nationwide.

4 (b) As part of the report required under subsection (a),
5 the authority shall include findings and recommendations
6 following its review of the effectiveness of the authority in
7 furthering the purposes of this chapter, including:

8 (1) An analysis of whether the authority has fulfilled its
9 intended purpose under this chapter;

10 (2) An analysis of whether the activities of the authority
11 should continue for a specified period of time and any
12 recommendations, including proposed legislation, for
13 changes to the powers and duties of the authority to
14 better further the purposes of this chapter; and

15 (3) An analysis of whether the activities of the authority
16 should be terminated and the laws governing the
17 authority repealed within a specified time frame and
18 any recommendations, including proposed legislation,
19 necessary to facilitate an orderly transition
20 following the termination of activities of the



1 authority, including the appropriate disposition of
2 the assets of the authority."

3 PART III

4 SECTION 3. Section 206S-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 1. By adding a new definition to be appropriately
7 inserted and to read:

8 "Broadband equity" means a condition in which all
9 residents are able to access, adopt, and use affordable, high-
10 speed, and reliable broadband that meets their needs."

11 2. By amending the definition of "digital equity" to
12 read:

13 "Digital equity" means a condition in which broadband
14 equity is achieved and all individuals and communities have the
15 information technology capacity needed for full participation in
16 society, democracy, and the economy."

17 SECTION 4. Section 206S-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"[+]§206S-3[+] Hawaii broadband and digital equity office;**
20 **duties.** In furtherance of the State's objectives and policies
21 for the economy pursuant to section 226-10.5, the office shall:



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1 (1) Develop and implement specific strategies and plans to
2 aggressively increase broadband affordability,
3 penetration, and competitive availability in the
4 State;

5 (2) Support the efforts of both public and private
6 entities in the State to enhance or facilitate the
7 deployment of and access to competitively priced,
8 advanced electronic communications services, including
9 broadband and its products and services and internet
10 access services of general application throughout the
11 State;

12 ~~[(3) Promote the landing of trans-Pacific submarine cable,~~
13 ~~including the development of a shared access cable~~
14 ~~station and associated terrestrial connectivity to~~
15 ~~reduce barriers to fiber landing in Hawaii;~~

16 +(4)] (3) Promote, advocate, and facilitate the
17 implementation of the findings and recommendations of
18 the Hawaii broadband task force established by Act 2,
19 First Special Session Laws of Hawaii 2007, and the
20 2020 Hawaii Broadband Strategic Plan;



- 1 [~~5~~] (4) Support the findings of the community-based
2 Broadband Hui as reflected in its digital equity
3 declaration;
- 4 [~~6~~] (5) Administer and coordinate federal and state grant
5 programs in support of [~~broadband infrastructure,~~
6 ~~innovation,~~] digital equity and the digital economy;
- 7 [~~7~~] (6) Actively seek out funding from public and private
8 sources in furtherance of the office's duties pursuant
9 to this section; and
- 10 [~~8~~] (7) Provide a repository, aggregation point, and
11 governance framework for broadband mapping and digital
12 equity data from various sources, including digital
13 literacy, telehealth, distance education, remote work,
14 internet accessibility, and service coverage to
15 support mapping, reporting, infrastructure deployment,
16 and data-driven policy."

PART IV

18 SECTION 5. There is appropriated out of the federal funds
19 received by the State the sum of \$ or so much thereof
20 as may be necessary for fiscal year 2022-2023 to enhance
21 broadband infrastructure programs and expand access to broadband



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1 in the State, including the installation of broadband
2 infrastructure.

3 The sum appropriated shall be expended by the department of
4 commerce and consumer affairs for the purposes of this Act.

5 PART V

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2022.

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INTRODUCED BY: Allen A. Bellotti

JAN 26 2022



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Report Title:

Hawaii Broadband Infrastructure Authority; Hawaii Broadband and Digital Equity Office; Digital Equity; Broadband Equity; Appropriation

Description:

Establishes the Hawaii broadband infrastructure authority. Defines broadband equity within the Hawaii broadband and digital equity office. Appropriates federal funds.

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