
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 next generation applications, such as artificial intelligence and smart communities, in Hawaii.

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 become connected
10 or 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



1 \$100,000,000 is available from the United States 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) Strengthening and clarifying the Hawaii broadband and
13 digital equity office's role in the broadband access
14 and digital equity; and
- 15 (3) Appropriating 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:



1 "CHAPTER

2 HAWAII BROADBAND INFRASTRUCTURE AUTHORITY

3 § -1 Short title. This chapter may be cited as the
4 Hawaii Broadband Infrastructure Authority Act.

5 § -2 Definitions. As used in this chapter:

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

11 "Authority" means the Hawaii broadband infrastructure
12 authority.

13 "Board" means the Hawaii broadband infrastructure authority
14 board.

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

17 "Project" means real property, personal property,
18 equipment, fixtures, materials, wires, cables, labor and other
19 improvements necessary and proper for the provision of advanced
20 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;



- 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) Six ex officio voting members, or their designees, as
- 6 follows:
- 7 (A) The director of commerce and consumer affairs;
- 8 (B) The director of business, economic development,
- 9 and tourism;
- 10 (C) The president of the University of Hawaii;
- 11 (D) The director of finance;
- 12 (E) The chief information officer; and
- 13 (F) The director of the Hawaii broadband and digital
- 14 equity office.

15 § -5 **Terms; reappointments; vacancies; chair.** The

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

17 determined by the governor; provided that the initial

18 appointments shall be as follows:

- 19 (1) Two members shall serve a one-year term;
- 20 (2) Two members shall serve a two-year term; and
- 21 (3) Three members shall serve a three-year term.



1 Members appointed by the governor are eligible for
2 reappointment. If a member appointed by the governor fails to
3 serve until the expiration of the member's term, the governor
4 may appoint a replacement member for the remainder of that
5 member's term. The board shall select one member to serve as
6 chair of the authority.

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

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



1 § **-8 Indemnification.** A member of the authority, while
2 acting within the scope of this chapter, shall not be subject to
3 any personal liability resulting from the exercise or carrying
4 out of any of the authority's purposes or powers. Each member
5 of the authority shall be indemnified by the authority against
6 expenses actually and necessarily incurred by the member in
7 connection with the defense of any action or proceeding in which
8 the member is made a party by reason of being or having been a
9 member of the authority and against any final judgment rendered
10 against the member in that action or proceeding.

11 § **-9 Conflicts.** A member of the authority shall not
12 participate in any decision on any contract entered into by the
13 authority under this chapter if that member has any interest,
14 direct or indirect, in any firm, partnership, corporation, or
15 association that is party to the contract. The interest shall
16 be disclosed to the authority in writing and shall be set forth
17 in the minutes of the authority. Members shall file an annual
18 conflict of interest disclosure report in a form to be
19 determined in its rules.

20 § **-10 Powers and duties of the authority.** (a) The
21 authority may:



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



- 1 however acquired, including upon threat of
2 foreclosure;
- 3 (7) Prepare, plan, improve, equip, maintain, reconstruct,
4 and operate projects, attendant facilities, and
5 infrastructure, including promoting the landing of
6 trans-Pacific submarine cable with the development of
7 a shared access cable station and associated
8 terrestrial connectivity to reduce barriers to fiber
9 landing in Hawaii;
- 10 (8) Incur debts;
- 11 (9) Accept federal funds or other assistance;
- 12 (10) Fix and collect fees;
- 13 (11) 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 (12) Regulate and oversee broadband infrastructure,
4 including the reduction of barriers to fiber landing
5 in Hawaii;

6 (13) Manage or operate real or personal property;

7 (14) Appear on the authority's own behalf before boards,
8 commissions, departments or agencies of a municipality,
9 the State, or the United States;

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

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

16 (17) Hire staff.

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

20 § -11 Rights of way; projects and facilities. (a) The
21 authority may develop, lease or otherwise acquire, own, hold,



1 dispose of and encumber conduit, fiber, rights of way, and other
2 real and personal property related to broadband infrastructure
3 that shall be necessary or convenient to the fulfillment of such
4 purposes.

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

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

13 **§ -12 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. A communications service provider
19 or wireless provider may designate information provided to the
20 authority under this subsection as non-public, and the authority



1 shall keep information so designated confidential to the extent
2 permitted by chapter 92F and other applicable laws.

3 (b) A communications service provider or a wireless
4 provider may request that information provided to the authority
5 that the provider requests be designated as confidential under
6 subsection (a) not be viewed by those members of the authority
7 who could gain a competitive advantage from viewing the
8 information. Upon such a request, the authority shall ensure
9 that the information provided is viewed only by those members of
10 the authority and staff who do not stand to gain a competitive
11 advantage and that there are adequate safeguards to protect that
12 information from members of the authority who could gain a
13 competitive advantage from viewing the information.

14 § -13 **Legislative oversight.** (a) No later than
15 January 15, 2023, and annually thereafter, the authority shall
16 provide a report to the legislature with the following
17 information:

- 18 (1) The budget of the authority;
- 19 (2) Documentation of the activities of the authority,
20 including a detailed description of the progress
21 toward the state connectivity goals in section -3;



1 (3) A listing of any investments of money in the
2 authority, while maintaining confidentiality for
3 organizations working with the authority; and
4 (4) An analysis of the availability of communications
5 services and advanced communications technology
6 infrastructure, including an analysis of the
7 competitive market in the State for communications
8 services and advanced communications technology
9 infrastructure, and whether the communications
10 services provided in the State are reasonably
11 comparable to services provided regionally and
12 nationwide.

13 (b) As part of the report required under subsection (a),
14 the authority shall include findings and recommendations
15 following its review of the effectiveness of the authority in
16 furthering the purposes of this chapter, including:

17 (1) An analysis of whether the authority has fulfilled its
18 intended purpose under this chapter;
19 (2) An analysis of whether the activities of the authority
20 should continue for a specified period of time and any
21 recommendations, including proposed legislation, for



1 changes to the powers and duties of the authority to
 2 better further the purposes of this chapter; and
 3 (3) An analysis of whether the activities of the authority
 4 should be terminated and the laws governing the
 5 authority repealed within a specified time frame and
 6 any recommendations, including proposed legislation,
 7 necessary to facilitate an orderly transition
 8 following the termination of activities of the
 9 authority, including the appropriate disposition of
 10 the assets of the authority."

11 PART III

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

14 1. By adding a new definition to be appropriately
 15 inserted and to read:

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

19 2. By amending the definition of "digital equity" to
 20 read:



1 ""Digital equity" means a condition in which broadband
2 equity is achieved and all individuals and communities have the
3 information technology capacity needed for full participation in
4 society, democracy, and the economy."

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

7 "~~§~~206S-3~~§~~ **Hawaii broadband and digital equity office;**
8 **duties.** In furtherance of the State's objectives and policies
9 for the economy pursuant to section 226-10.5, the office shall:

10 (1) Develop and implement specific strategies and plans to
11 aggressively increase broadband affordability,
12 penetration, and competitive availability in the
13 State;

14 (2) Support the efforts of both public and private
15 entities in the State to enhance or facilitate the
16 deployment of and access to competitively priced,
17 advanced electronic communications services, including
18 broadband and its products and services and internet
19 access services of general application throughout the
20 State;



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

5 ~~(4)]~~ (3) Promote, advocate, and facilitate the
 6 implementation of the findings and recommendations of
 7 the Hawaii broadband task force established by Act 2,
 8 First Special Session Laws of Hawaii 2007, and the
 9 2020 Hawaii Broadband Strategic Plan;

10 ~~[(5)]~~ (4) Support the findings of the community-based
 11 Broadband Hui as reflected in its digital equity
 12 declaration;

13 ~~[(6)]~~ (5) Administer and coordinate federal and state grant
 14 programs in support of ~~[broadband infrastructure,~~
 15 ~~innovation,]~~ digital equity and the digital economy;

16 ~~[(7)]~~ (6) Actively seek out funding from public and private
 17 sources in furtherance of the office's duties pursuant
 18 to this section; and

19 ~~[(8)]~~ (7) Provide a repository, aggregation point, and
 20 governance framework for broadband mapping and digital
 21 equity data from various sources, including digital

1 literacy, telehealth, distance education, remote work,
2 internet accessibility, and service coverage to
3 support mapping, reporting, infrastructure deployment,
4 and data-driven policy."

5 PART IV

6 SECTION 5. There is appropriated out of the federal funds
7 received by the State the sum of \$ or so much thereof
8 as may be necessary for fiscal year 2022-2023 to enhance
9 broadband infrastructure programs and expand access to broadband
10 in the State, including the installation of broadband
11 infrastructure.

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

14 PART V

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

17 SECTION 7. This Act shall take effect on July 1, 2050.

18



H.B. NO. 2397 H.D. 1

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. Effective 7/1/2050. (HD1)

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