

**Session Laws of Hawaii
Passed By The
Fourteenth State Legislature
Special Session
1988**

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H.B. NO. 2032

A Bill for an Act Relating to Telecommunications and Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The Legislature finds that advances in telecommunications and information technology present significant opportunities for the State to develop and diversify its economy, establish an information industry, and promote access to data.

Fiber optic cables, connecting Hawaii with the mainland United States and Japan, and new communications satellites are expected to dramatically increase the volume of information transmitted across the Pacific. As transmission capacity increases, costs are reduced. The ability to access and process information which can be used by businesses, governmental agencies, educational institutions, and individuals will contribute to the State's economic vitality. Telecommunications presents a means of transmitting information quickly and inexpensively between Hawaii and all parts of the Pacific Basin and the world, thereby creating an opportunity to develop a new industry.

The establishment of an information network would enable public and private information providers with a single distribution point for their information and information-related services. It will require an active involvement by government to stimulate the creation of information industries in Hawaii. It will also require the long-term establishment of a public corporation to promote the development of information industries. Such an industry, in and of itself, would serve to expand and diversify Hawaii's economy. This new industry would also support and encourage the development of other industries, especially in Hawaii, that depend upon information for their operations.

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

“CHAPTER HAWAII TELECOMMUNICATIONS AND INFORMATION INDUSTRIES ACT

PART I. HAWAII INFORMATION NETWORK CORPORATION

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Board” means the board of directors of the Hawaii Information network corporation.

“Corporation” means the Hawaii information network corporation, also known as Hawaii INC, established under this chapter.

“Council” means the information industry advisory council as established under this chapter.

“Hawaii business” means any person, agency, partnership, corporation, or other business entity with its principal place of business or headquarters located in the State of Hawaii.

“Information network” means the complex of telecommunications and information processing hardware and software and human resources that enables users with terminals, microcomputers, or other systems to access information systems.

“Information industry” means any industry designed to derive economic benefit or to improve the public good from the flow of information, through the brokerage, creation, transmission, reception, or processing of information.

“Responsible agency” means the government agency providing information to the corporation.

§ -2 **Establishment of Hawaii INC; purpose.** There is established the Hawaii information network corporation, also known as Hawaii INC. which shall be a body corporate and public instrumentality of the State. The corporation shall be placed with the department of budget and finance for administrative purposes only.

The purposes of this corporation shall be to encourage the development and growth of the information industry in Hawaii in accordance with sound business principles and practices. The corporation shall establish a program to enable private information service providers to attach to the information network to enable users to access information. The corporation shall also provide access to state information systems as shall be made available to the corporation through the department of budget and finance. The corporation may also develop applications to supply private information obtained from private sources of data base providers on its network.

The operation of the corporation shall be consistent with the general functions and authority for telecommunication and information development of state agencies which have the responsibility of (i) establishing standards, policies and procedures for State data bases and networks, (ii) establishing, operating, and managing State information networks, and (iii) developing and managing statewide digital communications infrastructure. The corporation shall not act in conflict with or in preemption of the programs of any state agency relating to the processing of distributed information and the management of information resources under the network of such state agency.

§ -3 **Board of directors; composition.** (a) The affairs of the corporation shall be under the general management and control of the board. The board shall consist of nine voting members. Six members shall be appointed by the governor for staggered terms as provided in section 26-34. These members shall be appointed to assure a broad and balanced representation of education, business, and other

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pertinent disciplines and professions, including, but not limited to, information processing technology, telecommunications, finance, commerce and trade, corporate management, library and information science, and marketing.

(b) The director of the department of business and economic development, the president of the University of Hawaii, and the director of the department of budget and finance, or their designated representatives, shall be ex officio voting members of the board. The director of the department of budget and finance shall serve as a chairperson of the board until such time as the board elects a chairperson from its membership. The board shall elect such other officers as it deems necessary.

(c) The members of the board shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses incurred in carrying out their duties.

§ -4 Powers and duties of the board. The powers and duties of the board under this chapter shall be exercised within the intent and scope of the purposes set forth in section -2. In addition to any other powers and duties granted by this chapter, the board shall have the following powers and duties:

- (1) To manage access and promote development of private information services and systems for the information network;
- (2) To support, promote, and encourage the development of an information industry in the State of Hawaii through the support of private and public sector initiatives to increase business opportunities and employment in information industries in the State;
- (3) To encourage public and private efforts to develop information resources;
- (4) To explore and recommend the legislation and regulations relevant to the development of a business climate favorable to the information industry, including, but not limited to, telecommunications and intellectual property rights;
- (5) To sue and be sued;
- (6) To sell, lease, rent, hold, maintain, use and operate any property, real, personal, or mixed, tangible or intangible, in furtherance of the objectives of this chapter;
- (7) To enter into and perform such contract, leases, cooperative agreements, or other transactions with any private person, firm, partnership, association, company, corporation, or government entity, as it may be necessary in the conduct of its business and on such terms as it may deem appropriate; provided that the corporation shall not obligate any funds of the State except such as have been appropriated to it;
- (8) To engage the services of consultants on a contractual basis for rendering professional advice and technical assistance;
- (9) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to such conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all such conditions or trusts on behalf of the State of Hawaii;
- (10) To stimulate and promote cooperative research projects and activities; and
- (11) To do all things necessary and proper to carry out the purposes of this chapter.

§ -5 Corporation shall be exempt from certain state laws. In order to promote cooperative projects with private firms or persons, the corporation shall

be granted flexibility in hiring its personnel and in handling and shall not be subject to the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Chapter 76, relating to civil service;
- (3) Chapter 77, relating to compensation; and
- (4) Section 78-1 relating to public employment.

§ **-6 Employees of the corporation.** The board may appoint an executive director and such other employees as may be necessary in administering the affairs of the corporation. The salary shall not exceed that of a first deputy under Section 26-53. It shall set the employees' duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. It may grant such other benefits to its employees as it deems necessary. Employees of the corporation shall not be entitled to any benefits conferred under chapter 76 relating to civil service, chapter 77 relating to compensation, chapters 78 to 83 relating to public employment, chapter 88 relating to pension and retirement system, and chapter 89 relating to collective bargaining.

§ **-7 Hawaii information network special fund.** (a) Notwithstanding any other law to the contrary, the corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts.

(b) The following moneys shall be deposited into the special fund:

- (1) Appropriations by the legislature to the special fund;
- (2) Proceeds derived from the operations of the corporation; and
- (3) Gifts, donations, and grants from public agencies and private persons.

(c) The corporation may expend moneys from the fund to carry out the powers and duties specified in section -3.

§ **-8 Annual report.** The corporation shall submit a complete and detailed report of its activities to the governor and the legislature at least twenty days prior to the convening of each regular legislative session.

§ **-9 Patents, copyrights, and other rights.** Any patents, copyrights, inventions, discoveries, or other rights arising from corporation activities shall belong to the State of Hawaii and be subject to such policies, rules, or regulations as the board may adopt.

§ **-10 Charges and term for services.** (a) Access and information use fees and other charges by the corporation shall be adopted in accordance with Chapter 91.

(b) Information and access fee and charges for public information provided through the information network shall be established by the corporation by agreement with the department of budget and finance and shall be adopted in accordance with chapter 91.

(c) The term for which services are to be rendered shall be by agreement between the corporation and the responsible agency or other data base provider.

§ **-11 Data dissemination.** The corporation shall be the agency to manage access by users to private information services pursuant to agreement between the corporation and the private information provider.

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PART II. INFORMATION INDUSTRY ADVISORY COUNCIL

§ -12 **Information industry advisory council.** The board may establish one or more information industry advisory councils to serve from time to time in an advisory capacity to the corporation. Each such council shall be selected by the board of directors. Members of a council shall designate its chairperson.

§ -13 **Council, compensation.** Members shall serve without compensation but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties.

§ -14 **Legislative review.** The legislature shall review the affairs of the corporation after three years have elapsed from the date of the corporation's establishment. The legislature shall consider any reports submitted by any information industry advisory council. The legislature shall evaluate the appropriate future business entity and administrative affiliation of the corporation in the 1992 regular session."

SECTION 3. Chapter 226, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§226- Objectives and policies for the economy-information industry.

(a) Planning for the State's economy with regard to the information industry shall be directed toward the achievement of the objective of positioning Hawaii as the leading dealer in information businesses and services in the Pacific Rim.

(b) To achieve the information industry objective, it shall be the policy of this State to:

- (1) Encourage the continued development and expansion of the telecommunications infrastructure serving Hawaii to accommodate future growth in the information industry;
- (2) Facilitate the development of new business and service ventures in the information industry which will provide employment opportunities for the people of Hawaii;
- (3) Encourage greater cooperation between the public and private sectors in developing and maintaining a well-designed information industry;
- (4) Ensure that the development of new businesses and services in the industry are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people;
- (5) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the information industry;
- (6) Foster a recognition of the contribution of the information industry to Hawaii's economy; and
- (7) Assist in the promotion of Hawaii as a broker, creator, and processor of information in the Pacific."

SECTION 4. Section 26-8, Hawaii Revised Statutes, is amended to read as follows:

"§26-8 Department of budget and finance. The department of budget and finance shall be headed by a single executive to be known as the director of finance.

The department shall undertake the preparation and execution of the executive budget of the state government; conduct a systematic and continuous review of the finances, organization, and methods of each department of the State to assist

each department in achieving the most effective expenditure of all public funds and to determine that such expenditures are in accordance with the budget laws and controls in force; have custody of state funds and be responsible for the safekeeping, management, investment, and disbursement thereof; and administer state debts.

The department of budget and finance shall develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government. The state communication system shall be established to facilitate implementation of the state's distributed information processing and information resource management plans; improve data, voice, and video communications in state government; provide a means for connectivity among the state, university, and county computer systems; and provide a long-term means for public access¹ to public information.

The functions and authority heretofore exercised by the bureau of the budget (except for insurance management, surplus property management, and central purchasing transferred to the department of accounting and general services) and the funds custody, cash management, debt management, and administering of veterans loan functions of the treasurer as heretofore constituted are transferred to the department of budget and finance established by this chapter.

The employees retirement system as constituted by chapter 88 is placed within the department of budget and finance for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of finance, and the composition of the board of trustees of the employees retirement system shall be as heretofore provided by law.

The public utilities commission is placed within the department of budget and finance for administrative purposes only."

SECTION 5. Section 226-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (1) Facilitate investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries.
- (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.
- (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts.
- (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste.
- (5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State.
- (6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives.
- (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research.
- (8) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii.

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- (9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii.
- (10) Increase research and development of businesses and services in the telecommunications and information industries."

SECTION 6. Section 226-103, Hawaii Revised Statutes, is amended to read as follows:

"§226-103 Economic priority guidelines. (a) Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable and diversified economy:

- (1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.
- (2) Encourage the expansion of technological research to assist industry development and support the development and commercialization of technological advancements.
- (3) Improve the quality, accessibility, and range of services provided by government to business, including data and reference services and assistance in complying with governmental regulations.
- (4) Seek to ensure that state business tax and labor laws and administrative policies are equitable, rational, and predictable.
- (5) Streamline the building and development permit and review process, and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where public health, safety, and welfare would not be adversely affected.
- (6) Encourage the formation of cooperatives and other favorable marketing or distribution arrangements at the regional or local level to assist Hawaii's small-scale producers, manufacturers, and distributors.
- (7) Continue to seek legislation to protect Hawaii from transportation interruptions between Hawaii and the continental United States.
- (8) Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:
 - (A) An industry that can take advantage of Hawaii's unique location and available physical and human resources.
 - (B) A clean industry that would have minimal adverse effects on Hawaii's environment.
 - (C) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs.
 - (D) An industry that would provide reasonable income and steady employment.
- (9) Support and encourage, through educational and technical assistance programs and other means, expanded opportunities for employee ownership and participation in Hawaii business.
- (10) Enhance the quality of Hawaii's labor force and develop and maintain career opportunities for Hawaii's people through the following actions:
 - (A) Expand vocational training in diversified agriculture, aquaculture, information industry, and other areas where growth is desired and feasible.
 - (B) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.

- (C) Allocate educational resources to career areas where high employment is expected and where growth of new industries is desired.
- (D) Promote career opportunities in all industries for Hawaii's people by encouraging firms doing business in the State to hire residents.
- (E) Promote greater public and private sector cooperation in determining industrial training needs and in developing relevant curricula and on-the-job training opportunities.
- (F) Provide retraining programs and other support services to assist entry of displaced workers into alternative employment.

(b) Priority guidelines to promote the economic health and quality of the visitor industry:

- (1) Promote visitor satisfaction by fostering an environment which enhances the Aloha Spirit and minimizes inconveniences to Hawaii's residents and visitors.
- (2) Encourage the development and maintenance of well-designed, adequately serviced hotels and resort destination areas which are sensitive to neighboring communities and activities and which provide for adequate shoreline setbacks and beach access.
- (3) Support appropriate capital improvements to enhance the quality of existing resort destination areas and provide incentives to encourage investment in upgrading, repair, and maintenance of visitor facilities.
- (4) Encourage visitor industry practices and activities which respect, preserve, and enhance Hawaii's significant natural, scenic, historic, and cultural resources.
- (5) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
- (6) Support and coordinate tourism promotion abroad to enhance Hawaii's share of existing and potential visitor markets.
- (7) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
- (8) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
- (9) Coordinate visitor industry activities and promotions to business visitors through the state network of advanced data communication techniques.

(c) Priority guidelines to promote the continued viability of the sugar and pineapple industries:

- (1) Provide adequate agricultural lands to support the economic viability of the sugar and pineapple industries.
- (2) Continue efforts to maintain federal support to provide stable sugar prices high enough to allow profitable operations in Hawaii.
- (3) Support research and development, as appropriate, to improve the quality and production of sugar and pineapple crops.

(d) Priority guidelines to promote the growth and development of diversified agriculture and aquaculture:

- (1) Identify, conserve, and protect agricultural¹ lands of importance and initiate affirmative and comprehensive programs to promote economically productive agricultural and aquacultural uses of such lands.
- (2) Assist in providing adequate, reasonably priced water for agricultural activities.
- (3) Encourage public and private investment to increase water supply and to improve transmission, storage, and irrigation facilities in support of diversified agriculture and aquaculture.

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- (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
- (5) Encourage and assist with the development of a waterborne and air-borne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
- (6) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
- (7) Encourage the development and expansion of agricultural and aquacultural activities which offer long-term economic growth potential and employment opportunities.
- (8) Continue the development of agricultural parks and other programs to assist small independent farmers in securing agricultural lands and loans.
- (9) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.
- (e) Priority guidelines for water use and development:
 - (1) Maintain and improve water conservation programs to reduce the overall water consumption rate.
 - (2) Encourage the improvement of irrigation technology and promote the use of nonpotable water for agricultural and landscaping purposes.
 - (3) Increase the support for research and development of economically feasible alternative water sources.
 - (4) Explore alternative funding sources and approaches to support future water development programs and water system improvements.
- (f) Priority guidelines for energy use and development:
 - (1) Encourage the development, demonstration, and commercialization of renewable energy sources.
 - (2) Initiate, maintain, and improve energy conservation programs aimed at reducing energy waste and increasing public awareness of the need to conserve energy.
 - (3) Provide incentives to encourage the use of energy conserving technology in residential, industrial, and other buildings.
 - (4) Encourage the development and use of energy conserving and cost-efficient transportation systems.
- (g) Priority guidelines to promote the development of the information in-

dustry:

- (1) Establish an information network that will serve as the catalyst for establishing a viable information industry in Hawaii.
- (2) Encourage the development of services such as financial data processing, a products and services exchange, foreign language translations, telemarketing, teleconferencing, a twenty-four-hour international stock exchange, international banking, and a Pacific Rim management center.
- (3) Encourage the development of small businesses in the information field such as software development, the development of new information systems and peripherals, data conversion and data entry services, and home or cottage services such as computer programming, secretarial, and accounting services.
- (4) Encourage the development or expansion of educational and training opportunities for residents in the information and telecommunications fields.
- (5) Encourage research activities, including legal research in the information and telecommunications fields.

- (6) Support promotional activities to market Hawaii's information industry services.

SECTION 7. The department of budget and finance shall coordinate state efforts to provide access to public records through communication and information technologies and manage the public access and use of the information network. However, the department shall ensure that the information network does not result in increased charges to the public for general access to public data bases, such as the libraries or infringe upon the business activities of telecommunications service providers and that the information network reaches all neighbor islands.

SECTION 8. The department of budget and finance shall report to the legislature twenty days prior to the convening of the 1989 regular session on the plan of implementation for the information network. The report shall include, but not be limited to:

- (1) The status of the current implementation and development of the information network to be established under this Act;
- (2) An assessment of the efficiency of access to those data; and
- (3) The costs related to the implementation of the design and operation of the information network.

The department of budget and finance and Hawaii information network corporation shall further develop a coordinated plan for the integration of private and public information resources.

SECTION 9. The Hawaii information network corporation shall report to the legislature twenty days prior to the convening of the 1989 regular session on the future of information industries. The report shall include, but not be limited to:

- (1) The definition and resolution of basic legal issues regarding information transmittal and access, and other related issues;
- (2) An assessment both within and without the State of the demand and economic market for Hawaii public data in selected areas;
- (3) An identification of possible information industry-related businesses to achieve the purposes of the Act; and
- (4) The projected employment opportunities by types of positions should the State implement an information networking program to attract the information industry to Hawaii.

SECTION 10. The department of business and economic development shall hold a conference involving interested members of the community and information industries in January, 1989, or at the convening of the 1989 legislative session. The purpose of the conference shall be:

- (1) To educate businesses and the general public regarding the availability of data and opportunities in the information industry;
- (2) To explore basic legal issues regarding the information industry;
- (3) To review the studies and reports conducted by the department of budget and finance and the Hawaii information network corporation; and
- (4) To receive a progress report on the University of Hawaii libraries' linkages to local, regional, national and international data bases; and

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- (5) To provide a forum for discussion of other issues pertinent to the development of an information industry in Hawaii.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$700,000 for fiscal year 1988-89 for the operations of the Hawaii information network corporation; and for the assessment of economic demand, identification of information industry-related businesses, employment projections, and other studies related to the purposes of this Act, provided that the unexpended and unencumbered balance of the sums appropriated shall not lapse until the close of business on June 30, 1989. The sum appropriated shall be expended by the department of budget and finance.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 for fiscal year 1988-89 for reports and studies related to the development and operation of the telecommunications infrastructure for the information network, and to carry out the purposes of this Act, provided that the unexpended and unencumbered balance of the sums appropriated shall not lapse until the close of business on June 30, 1989. The sum appropriated shall be expended by the department of budget and finance.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 for fiscal year 1988-1989 for the purpose of funding a conference pursuant to section 9. The sum appropriated shall be expended by the department of business and economic development.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,950,000 for fiscal year 1988-89 which shall be deposited into the discoveries and inventions revolving fund to build a University of Hawaii information network; to create the capacity to access information resources in other research libraries; to expand high speed communication links among University libraries and computing centers; to link University libraries to local, regional, national, and international data bases; to convert University libraries' card catalogs and information files to machine readable form; and to develop the necessary mechanisms to package and sell University controlled data and data bases. The sum shall be expended by the department of budget and finance.

SECTION 15. New statutory material is underscored.²

SECTION 16. This Act shall take effect upon approval.

(Approved June 6, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.