
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 the economic and
2 business incentives to deploy broadband service infrastructure
3 may be insufficient to ensure full access to broadband services
4 in low-density, rural locations and other unserved and
5 underserved areas of the State where the unit costs of providing
6 service may not provide an adequate return on investment.

7 Economically feasible deployment of infrastructure for
8 high-speed broadband across the State, especially to low
9 population density areas, presents a more formidable challenge
10 than faced by most states, which are part of one continental
11 land mass, because the unique geography of our State prevents
12 the use of less costly options for connectivity.

13 Access to broadband services in unserved and underserved
14 areas in Hawaii would enhance economic development, education,
15 health care, and emergency services in the State. The
16 availability of grants for deployment to unserved and



1 underserved areas would further those objectives by encouraging
2 new investment in broadband service infrastructure.

3 The legislature strongly supports efforts to improve access
4 to broadband services for residents across the State and efforts
5 that benefit consumers and businesses in accessing services.

6 Although broadband coverage in the State is widespread,
7 additional investment can be made to keep up with needs in rural
8 communities to bridge the digital divide. There continues to be
9 a need for broadband access in rural areas of the State.

10 The purpose of this Act is to facilitate the deployment of
11 broadband service infrastructure in unserved and underserved
12 areas of Hawaii by identifying and addressing remaining
13 obstacles to full deployment of broadband infrastructure to all
14 areas of Hawaii. Specifically, this Act establishes the
15 broadband service infrastructure grant program to award grants
16 to applicants to extend deployment of facilities used to provide
17 broadband service to unserved and underserved areas of the
18 State.

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 BROADBAND SERVICE INFRASTRUCTURE GRANT PROGRAM

3 § -1 Definitions. As used in this chapter, unless the
4 context requires otherwise:

5 "Broadband service" means a mass market retail service
6 using any wireline or fixed wireless technology that provides
7 the capability to transmit data from or to all or substantially
8 all internet endpoints.

9 "Broadband service infrastructure" means the medium used to
10 provide broadband access or broadband service, including fiber
11 optic cable, cooper cable, coaxial cable, wi-fi, and worldwide
12 interoperability for microwave access, and poles, towers, and
13 other physical structures to which broadband equipment is
14 attached.

15 "Department" means the department of business, economic
16 development, and tourism.

17 "Program" means the broadband service infrastructure grant
18 program established by this chapter.

19 "Project" means a proposed deployment of broadband service
20 infrastructure set forth in an application for grant funding
21 authorized under this chapter.



1 "Project area" means a census block or aggregation of
2 adjacent census blocks proposed to be covered in an application
3 for grant funding authorized under this chapter.

4 "Unserved area" means a project area without access to
5 broadband service with minimum speeds of at least twenty-five
6 megabits per second downstream and three megabits per second
7 upstream.

8 "Underserved area" means a project area without access to
9 broadband service with minimum speeds of at least fifty megabits
10 per second downstream and five megabits per second upstream.

11 **§ -2 Establishment of the broadband service**

12 **infrastructure grant program.** There is established the
13 broadband service infrastructure grant program to be placed in
14 the department of business, economic development, and tourism
15 for administrative purposes. The department shall receive and
16 review grant applications and may award grants for eligible
17 projects pursuant to the program.

18 **§ -3 Eligible projects.** (a) The department may award
19 grants for eligible projects; provided that on the date the
20 application is submitted, the area to be served by the project
21 shall be an unserved area or underserved area; and provided



1 further that no funds may be used to support any project
2 involving the upgrade of existing broadband plants by an
3 applicant.

4 (b) The project area to be served by a project funded
5 through the program shall be described on a census block basis.

6 § -4 Eligible applicants. To become eligible for a
7 grant, an applicant for a grant:

8 (1) May not receive funds under any other federal or state
9 government grant or loan program for projects covered
10 by an application;

11 (2) Shall commit to paying a minimum of twenty per cent of
12 the project costs out of the applicant's own funds;
13 and

14 (3) May be any non-governmental entity with demonstrated
15 experience in providing broadband service, broadband
16 service infrastructure, or other communications
17 service to residential customers within the State.

18 § -5 Applications. (a) The department shall establish
19 an annual time period to commence an open process for submission
20 of applications for funding under the program. The time period



1 for submission shall be not less than sixty and not more than
2 ninety days.

3 (b) The form of the application shall be as prescribed by
4 the department. The application shall provide the following
5 information:

6 (1) Evidence demonstrating the applicant's experience and
7 ability in building, operating, and managing broadband
8 service networks serving residential customers;

9 (2) A description of the project area, including a list of
10 census blocks covered by the proposed deployment. If
11 a census block included in an application is already
12 partially served by a provider of broadband service,
13 the application shall describe the portions of the
14 census block that are already served and the portions
15 of the census block that constitute an unserved area
16 or underserved area;

17 (3) A description of the broadband service infrastructure
18 that is proposed to be deployed, including facilities,
19 equipment, and network capabilities, including minimum
20 speed thresholds;



- 1 (4) Evidence, including certification from the applicant,
- 2 demonstrating the unserved or underserved nature of
- 3 the project area;
- 4 (5) The number of households that would have new access to
- 5 broadband service as a result of the grant;
- 6 (6) The total cost of the project and the timeframe in
- 7 which it will be completed;
- 8 (7) The amount of matching funds the applicant proposes to
- 9 contribute;
- 10 (8) Evidence demonstrating the economic and commercial
- 11 feasibility of the project;
- 12 (9) A list of all government authorizations, permits, and
- 13 other approvals required in connection with the
- 14 proposed deployment, and a timetable for the
- 15 applicant's acquisition of such approvals; and
- 16 (10) Any other information required by the department.

17 **§ -6 Review of applications; approval.** (a) Within five
 18 business days following the last day of the window for
 19 submission of applications, the department shall make the
 20 applications available for review in a publicly available
 21 electronic file.



1 (b) A broadband service provider that provides service
2 within or directly adjacent to a proposed project area may
3 submit, within forty-five days of the release of the
4 applications, a written challenge to the application. Such a
5 challenge may include information:

6 (1) Disputing an applicant's certification that a proposed
7 project area is an unserved area or underserved area,
8 or that no other federal or state programs provide
9 funding for a proposed project for which program
10 support is sought; and

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

14 (c) In reviewing applications, and any accompanying
15 challenge, the department shall review the proposed project
16 areas to ensure that all awarded funds are used to deploy
17 broadband service infrastructure to unserved areas or
18 underserved areas. The department shall not award any grants to
19 fund deployment of broadband service infrastructure for any
20 project area that fails to meet the criteria for being unserved
21 or underserved.



1 (d) The department shall award grants for projects set
2 forth in applications based upon a scoring system that shall be
3 released to the public at least thirty days prior to the first
4 day of the time period for submission of applications. The
5 scoring system employed by the department shall give the highest
6 weight or priority to the specific criteria enumerated as
7 follows:

8 (1) The size and scope of the unserved area or underserved
9 area proposed to be served;

10 (2) The experience, technical ability, and financial
11 wherewithal of the applicant in successfully deploying
12 and providing broadband service;

13 (3) Length of time the applicant has been providing
14 broadband services in the State;

15 (4) The extent to which government funding support is
16 necessary to deploy broadband service infrastructure
17 in an economically feasible manner in the proposed
18 project area;

19 (5) The size and proportion of the matching funds proposed
20 to be committed by the applicant;



- 1 (6) Whether the proposed project area is an unserved area,
2 rather than an underserved area;
- 3 (7) The service speed thresholds proposed in the
4 application and the scalability of the broadband
5 service infrastructure proposed to be deployed to
6 speeds higher than twenty-five megabits per second
7 downstream and three megabits per second upstream;
- 8 (8) The applicant's ability to leverage nearby or adjacent
9 broadband service infrastructure to facilitate the
10 proposed deployment and provision of service to
11 households;
- 12 (9) The extent to which the project does not duplicate any
13 existing broadband service infrastructure in the
14 proposed project area; and
- 15 (10) Such other factors the department determines to be
16 reasonable and appropriate, consistent with the
17 purpose of facilitating the economic deployment of
18 broadband service infrastructure to unserved and
19 underserved areas.
- 20 (e) In awarding grants, the department shall not include
21 consideration of any new or additional regulatory obligations



1 beyond those required under applicable law, including but not
2 limited to open access network requirements or any rate,
3 service, or other obligations beyond the speed requirements
4 required by this chapter. The department shall not consider
5 factors that would constrain an awardee from offering or
6 providing broadband service in the same manner as the service is
7 offered without funding support by the provider in other areas
8 of the State.

9 (f) Applicants shall be afforded a reasonable timeframe to
10 complete projects selected for funding approval.

11 **§ -7 Departmental authority.** Nothing shall:

12 (1) Preclude the department from requiring disgorgement of
13 grant funds in response to an applicant's pattern of
14 failure, following notice and an opportunity to cure
15 and build-out a project area in accordance with the
16 timeframes and milestones set forth in its
17 application;

18 (2) Be construed to preclude the department from
19 considering an applicant's financial ability to
20 complete the project proposed in an application or
21 making reasonable requests for information necessary



1 for the oversight and administration of projects
2 funded under this section; and
3 (3) Be deemed to empower the department to adopt any new
4 rules or additional regulatory obligations, or to
5 impose any new or additional regulatory requirements
6 on funding recipients, through grant agreements or any
7 other mechanism, other than the program implementation
8 rules expressly authorized in this chapter.

9 § -8 Rules. (a) The department shall adopt rules
10 pursuant to chapter 91 to effectuate the purposes of this
11 chapter.

12 (b) The rules:
13 (1) Shall include reasonable oversight and reporting
14 provisions to ensure that project funds are used as
15 intended;
16 (2) Shall not include third-party audit requirements,
17 letter of credit, security fund, performance bond
18 obligations, or any other financial commitment to
19 secure performance other than those expressly
20 specified in this chapter; and



1 (3) May not impose any financial penalty or liquidated
2 damages provisions, or provisions that are not
3 reasonably related to the deployment of broadband
4 service infrastructure by an applicant in accordance
5 with this chapter."

6 SECTION 3. Within one hundred eighty days of the approval
7 of this Act, the department of business, economic development,
8 and tourism shall adopt rules pursuant to chapter 91, Hawaii
9 Revised Statutes, to implement the broadband service
10 infrastructure grant program including the submission, review,
11 and approval of applications, and the administration of projects
12 funded, including rules for grant agreements memorializing the
13 award of funds.

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$5,000,000 or so much
16 thereof as may be necessary for fiscal year 2019-2020 for the
17 establishment and administration of the broadband service
18 infrastructure grant program established by this Act.



1 The sum appropriated shall be expended by the department of
2 business, economic development, and tourism for the purposes of
3 this Act.

4 SECTION 5. This Act shall take effect on July 1, 2112.



Report Title:

Broadband Service Infrastructure Grant Program; Unserved and Underserved Areas; Appropriation

Description:

Establishes the broadband service infrastructure grant program to award grants to applicants to extend deployment of facilities used to provide broadband service to unserved and underserved areas of the State. Makes an appropriation. (SB553 HD1)

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