



GOV. MSG. NO. 691

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 7, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2698 HD2 SD2 CD1

On July 6, 2010, House Bill No. 2698, entitled "A Bill for an Act Relating to Technology" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require the Director of Commerce and Consumer Affairs to promote telework and the expansion of broadband services in the State. This bill also requires the administrator of the Department of Commerce and Consumer Affairs's Cable Television Division to: (1) convene and chair the Telework Promotion and Broadband Assistance Advisory Council and advise the Department of Commerce and Consumer Affairs on promoting telework and broadband services in the State, and (2) convene a work group to discuss and develop procedures to streamline the State and County permitting process for broadband services. This measure also appropriates moneys from the Compliance Resolution Fund for fiscal year 2010-2011 to fund telework and broadband activities, and requires DCCA to report annually to the legislature on all expenditures of federal moneys received pursuant to the American Recovery and Reinvestment Act (ARRA) of 2009.

This bill represents a modest approach to the advancement of broadband services in the State of Hawaii. Far more comprehensive broadband initiatives were under consideration by the Legislature, including proposals introduced by the Senate Majority, House Majority, House Minority, and this Administration. These alternative proposals recognized the evolution and convergence of telecommunications technology by consolidating regulation of communications services (cable and telephone) under a new Hawaii Communications Commission, in order to expedite the availability of the latest communications services at the earliest possible time to Hawaii's residents. The

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Commission would have been funded from existing fees and would have been directed to achieve transformational goals, including creating broadband access on a competitive basis at reduced prices, increasing service penetration and quality, streamlining the permit process, and providing access to businesses and residents by 2012 at prices and speeds that would have made Hawaii a world leader. Regrettably, the Legislature decided to pass this bill instead, which, although helpful, is primarily concerned with promotion, advocacy and advice with respect to broadband matters.

Additionally, this measure adds functions related to telework to the responsibilities of the Department of Commerce and Consumer Affairs that are not a part of its core mission. The Department's function is to protect consumers from unfair business practices while "upholding fairness in the marketplace." The Department's mission does not and should not include promoting telecommuting by state and county employees.

For the foregoing reasons, I allowed House Bill No. 2698 to become law as Act 199, effective July 6, 2010, without my signature.

Sincerely,



LINDA LINGLE

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## A BILL FOR AN ACT

RELATING TO TECHNOLOGY.

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

1       SECTION 1. (a) Through Act 2, First Special Session Laws  
2 of Hawaii 2007, the legislature created the Hawaii broadband  
3 task force to provide recommendations on how to advance Hawaii's  
4 broadband capabilities and use. The legislature finds that  
5 advanced broadband services are essential infrastructure for an  
6 innovation economy and a knowledge society in the twenty-first  
7 century. High-speed broadband services at affordable prices are  
8 essential for the advancement of education, health, public  
9 safety, research and innovation, civic participation,  
10 e-government, economic development and diversification, and  
11 public safety and services. The legislature also recognizes the  
12 evolution in the manner in which communications and information  
13 services are delivered to the consumer, including by wireline,  
14 wireless, cable television, and satellite infrastructures, and  
15 that the voice, video, and data services provided over these  
16 infrastructures are converging.



1 Meeting the following goals is critical for Hawaii to  
2 compete successfully in the global economy of the twenty-first  
3 century:

4 (1) Ensure access to broadband communications for all  
5 households, businesses, and organizations throughout  
6 Hawaii by 2012 at speeds and prices comparable to the  
7 average speeds and prices available in the top three  
8 performing countries in the world;

9 (2) Increase availability of advanced broadband  
10 communications service on a competitive basis to  
11 reduce prices, increase service penetration, and  
12 improve service to all persons in Hawaii;

13 (3) Increase broadband availability at affordable costs to  
14 low-income and other disadvantaged groups, including  
15 making low-cost, broadband-capable computers available  
16 to eligible recipients;

17 (4) Increase sharing of the infrastructure used to deploy  
18 broadband to speed up implementation, reduce costs to  
19 providers, reduce underlying costs to providers  
20 through incentives rather than eminent domain  
21 procedures, ease deployment of broadband, and ease  
22 entry into a competitive broadband marketplace;



1 (5) Increase flexible, timely, and responsible access to  
2 public rights-of-way and public facilities for  
3 broadband service providers; and

4 (6) Develop a more streamlined permit approval process  
5 that reduces the time and cost of infrastructure  
6 deployment, to be created jointly by disparate  
7 permitting agencies, stakeholders, and other  
8 interested parties.

9 (b) The purpose of this Act is to begin implementation of  
10 activities to achieve these goals by:

11 (1) Adding the functions of telework promotion and  
12 broadband assistance to the department of commerce and  
13 consumer affairs' responsibilities over cable  
14 programming under chapter 440G, Hawaii Revised  
15 Statutes;

16 (2) Appropriating moneys from the compliance resolution  
17 fund for fiscal year 2010-2011 to fund telework and  
18 broadband activities;

19 (3) Establishing a telework promotion and broadband  
20 assistance advisory council to meet the goals of  
21 expanded broadband and its products and services in  
22 the State of Hawaii;



- 1 (4) Establishing a work group to develop procedures for  
2 streamlined permitting functions applicable to the  
3 development of broadband services or technology; and
- 4 (5) Requiring the department of commerce and consumer  
5 affairs to report annually to the legislature on all  
6 expenditures of federal moneys received pursuant to  
7 the American Recovery and Reinvestment Act of 2009 or  
8 other federal funds, for purchasing broadband  
9 facilities, services, or equipment, or entering into  
10 contracts for broadband-related projects.

11 SECTION 2. Chapter 440G, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§440G- Other duties of the director; broadband  
15 services. In conjunction with broadband services, the director  
16 shall:

- 17 (1) Promote and encourage use of telework alternatives for  
18 public and private employees, including appropriate  
19 policy and legislative initiatives;
- 20 (2) Advise and assist state agencies, and upon request of  
21 the counties, advise and assist the counties, in  
22 planning, developing, and administering programs,



1 projects, plans, policies, and other activities to  
2 promote telecommuting by employees of state and county  
3 agencies;

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

11 (4) Make recommendations to establish affordable,  
12 accessible broadband services to unserved and  
13 underserved areas of Hawaii and monitor advancements  
14 in communications that will facilitate this goal;

15 (5) Advocate for, and facilitate the development and  
16 deployment of, expanded broadband applications,  
17 programs, and services, including telework,  
18 telemedicine, and e-learning, that will bolster the  
19 usage of and demand for broadband level  
20 telecommunications;

21 (6) Serve as a broadband information and applications  
22 clearinghouse for the state and a coordination point



1           for federal American Recovery and Reinvestment Act of  
2           2009 broadband-related services and programs; and  
3       (7) Promote, advocate, and facilitate the implementation  
4           of the findings and recommendations of the Hawaii  
5           broadband task force established by Act 2, First  
6           Special Session Laws of Hawaii 2007.

7           The director shall submit an annual report to the  
8       legislature, no later than twenty days prior to the convening of  
9       each regular session, on the department's efforts to use  
10       broadband and its products and services to develop and expand  
11       telework initiatives, including telework participation levels  
12       and trends of both private and public sector employees in  
13       Hawaii.

14           Pursuant to chapter 440G-12(d), the director may appoint  
15       and employ engineers, accountants, attorneys, and professional,  
16       clerical, stenographic, or other assistants, as required, with  
17       or without regard to chapter 76."

18           SECTION 3. Telework promotion and broadband assistance  
19       advisory council; establishment; purpose. (a) The  
20       administrator of the cable television division of the department  
21       of commerce and consumer affairs shall convene and chair the  
22       broadband assistance advisory council to advise the





1 administrator on policy and funding priorities to promote and  
2 encourage use of telework alternatives for public and private  
3 employees, and expedite deployment of affordable and accessible  
4 broadband services in Hawaii.

5 (b) The council shall be composed of the administrator of  
6 the cable television division and the following twelve members  
7 who shall be equally appointed by the president of the senate  
8 and by the speaker of the house of representatives as follows:

- 9 (1) Two members of the senate, appointed by the president  
10 of the senate;
- 11 (2) Two members of the house of representatives, appointed  
12 by the speaker of the house of representatives;
- 13 (3) Four representatives of federal, state, and county  
14 government entities having a role in infrastructure  
15 deployment; management of public rights-of-way,  
16 regulation, and franchising; information technology;  
17 and economic development; and
- 18 (4) Four representatives of Hawaii's private sector  
19 technology, telecommunications, and investment  
20 industries.

21 Except for the administrator of the cable television division,  
22 all members shall serve for a term of four years. Any vacancies



1 occurring in the membership of the advisory council shall be  
2 filled for the remainder of the unexpired term in the same  
3 manner as the original appointments.

4 (c) The administrator of the cable television division  
5 shall serve as chairperson of the council. The council shall  
6 meet at times as may be called by the chairperson. Members  
7 shall be reimbursed for reasonable expenses, including travel  
8 expenses, necessary for the performance of their duties.  
9 Administrative support to the council shall be provided by the  
10 department of commerce and consumer affairs.

11 (d) The council shall:

- 12 (1) Monitor the broadband-based development efforts of  
13 other states and nations in areas such as business,  
14 education, and health;
- 15 (2) Advise the department on other states' best practices  
16 involving telework promotion and policies and  
17 strategies related to making affordable broadband  
18 services available to every Hawaii home and business;
- 19 (3) Monitor broadband-related activities at the federal  
20 level;



1 (4) Monitor regulatory and policy changes for potential  
2 impact on broadband deployment and sustainability in  
3 Hawaii; and

4 (5) Encourage public-private partnerships to increase the  
5 deployment and adoption of broadband services and  
6 applications.

7 SECTION 4. Work group; establishment; reporting. (a) The  
8 administrator of the cable television division of the department  
9 of commerce and consumer affairs shall convene a work group to  
10 develop procedures for streamlined permitting functions that are  
11 applicable to the development of broadband services and  
12 broadband technology that are normally available to state and  
13 local governments for the use or development of broadband  
14 service or broadband technology. Members of the work group  
15 shall include:

16 (1) The administrator of the cable television division, or  
17 the administrator's designee;

18 (2) The mayor of the county of Hawaii, or the mayor's  
19 designee;

20 (3) The mayor of the city and county of Honolulu, or the  
21 mayor's designee;



- 1 (4) The mayor of the county of Kauai, or the mayor's  
2 designee;
- 3 (5) The mayor of the county of Maui, or the mayor's  
4 designee;
- 5 (6) The chairperson of the Hawaii broadband task force  
6 established by Act 2, First Special Session Laws of  
7 Hawaii 2007; and
- 8 (7) Two representatives of state agencies with  
9 jurisdiction over land use and permitting at the state  
10 level.
- 11 (b) The work group shall submit to the legislature, no  
12 later than January 1, 2011, a report with its recommended  
13 procedures for streamlining and expediting all permitting  
14 functions normally available to state and local governments for  
15 the use or development of broadband service or broadband  
16 technology. The procedures shall be consistent across all  
17 counties and shall provide that any permitting fees and revenues  
18 traditionally accruing to the counties that relate to the use or  
19 development of broadband service or broadband technology shall  
20 continue to accrue to the counties after the procedures go into  
21 effect.



1 SECTION 5. The department of commerce and consumer affairs  
2 shall report annually to the legislature, no later than twenty  
3 days prior to the convening of each regular session, on the  
4 receipt and expenditure of federal moneys from the American  
5 Recovery and Reinvestment Act of 2009, and moneys from other  
6 federal appropriation measures or applicable federal acts, for  
7 the purposes of purchasing broadband facilities, services, or  
8 equipment or for entering into contracts for broadband-related  
9 projects by all state agencies for all state agencies approval.

10 SECTION 6. There is appropriated out of the compliance  
11 resolution fund subaccount CCA102, established under section 26-  
12 9(o), Hawaii Revised Statutes, the sum of \$500,000 or so much  
13 thereof as may be necessary for fiscal year 2010-2011 to be used  
14 for the purposes of Section 2 of this Act.

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

17 SECTION 7. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2010.

APPROVED this            day of            , 2010

GOVERNOR OF THE STATE OF HAWAII

