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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. The legislature finds that advanced broadband  
2 services are essential infrastructure for an innovation economy  
3 and a knowledgeable and competitive society in the twenty-first  
4 century. High-speed broadband services at affordable prices are  
5 essential for the advancement of education, health, public  
6 safety, research and innovation, civic participation,  
7 e-government, economic development and diversification, and  
8 public safety and services. The legislature also recognizes  
9 that the manner in which communications and information services  
10 are delivered to the consumer are evolving, including by  
11 wireline, wireless, cable television, and satellite  
12 infrastructures, and that the voice, video, and data services  
13 provided over these infrastructures are converging.

14           The purpose of this Act is to establish the Hawaii  
15 communications commission and the Hawaii broadband commissioner  
16 to position Hawaii for global competitiveness in the twenty-  
17 first century by promoting the following goals:



- 1 (1) Access to broadband communications to all households,  
2 businesses, and organizations throughout the State;
- 3 (2) Availability of advanced broadband communications  
4 service on a competitive basis to reduce prices,  
5 increase service penetration, and improve service to  
6 all persons in the State;
- 7 (3) Increased broadband availability at affordable costs  
8 to low income and other disadvantaged groups,  
9 including by making low-cost, broadband-capable  
10 computers available to eligible recipients;
- 11 (4) Increased sharing of the infrastructure used to deploy  
12 broadband to reduce costs to providers, ease  
13 deployment of broadband, and ease entry into a  
14 competitive broadband marketplace;
- 15 (5) Increased, flexible, timely, and responsible access to  
16 public rights-of-way and public facilities for  
17 broadband service providers; and
- 18 (6) A more streamlined permit approval process that  
19 reduces the time and cost of infrastructure  
20 deployment, to be created jointly by stakeholders.



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

4 "CHAPTER

5 HAWAII BROADBAND COMMISSION

6 § -1 **Definitions.** As used in this chapter, unless the  
7 context otherwise requires:

8 "Broadband" means an "always on" data networking service  
9 that enables end users to access the Internet and use a variety  
10 of applications.

11 "Commission" means the Hawaii broadband commission.

12 "Commissioner" means the Hawaii broadband commissioner.

13 § -2 **Hawaii broadband commission; established; terms;**  
14 **qualifications.** (a) There is established the Hawaii broadband  
15 commission within the department of commerce and consumer  
16 affairs for administrative purposes to implement this chapter.

17 (b) The Hawaii broadband commission shall consist of five  
18 members who shall be appointed by the governor, with the advice  
19 and consent of the senate, from a list of nominees selected by  
20 the house of representatives. The term of each member shall be  
21 four years; provided that, of the members initially appointed,  
22 three members shall serve for three years, and the two remaining



1 members shall serve for two years. Vacancies shall be filled  
2 for the remainder of any unexpired term in the same manner as  
3 original appointments. All meetings of the commission shall be  
4 conducted subject to chapter 92.

5 (c) Members of the commission shall have the following  
6 qualifications:

7 (1) Two members shall have significant experience and  
8 knowledge of the broadband, information technology, or  
9 communications industry; provided that during their  
10 term, they may not be employed or receive compensation  
11 from a telecommunications or technology entity that  
12 may be regulated by the commission at a future time or  
13 that currently has contracts with the State for the  
14 provision of goods or services;

15 (2) Two members shall have significant experience in  
16 public service and possess significant knowledge of  
17 state and federal laws, rules, and regulations related  
18 to permitting, procurement, and administration of  
19 communications services; provided further that during  
20 their term, they may not be employed by any state or  
21 county agency, with the exception of the University of



1 Hawaii or the natural energy laboratory of Hawaii  
2 authority; and

3 (3) One member shall have significant experience and  
4 knowledge of consumer advocacy;  
5 provided further that no less than two members of the  
6 commission shall each be residents of a county with less  
7 than five hundred thousand residents.

8 (d) The members of the commission shall serve without  
9 compensation but shall be reimbursed for expenses, including  
10 travel expenses, necessary for the performance of their duties.

11 § -3 **Hawaii broadband commissioner; qualifications;**  
12 **duties.** (a) There is established the Hawaii broadband  
13 commissioner within the department of commerce and consumer  
14 affairs for administrative purposes. The commissioner shall be  
15 exempt from chapters 76 and 89, and shall be appointed by the  
16 governor, with the advice and consent of the senate, from a list  
17 of nominees selected by the house of representatives. The term  
18 of the commissioner shall be six years, and vacancies shall be  
19 filled for the remainder of any unexpired term in the same  
20 manner as original appointments. The commissioner shall not  
21 serve as a member of the Hawaii broadband commission.



1 (b) The commissioner shall have significant experience and  
2 knowledge of:

3 (1) The broadband, information technology, and  
4 communications industries; and

5 (2) State and federal laws, rules, and regulations related  
6 to permitting, procurement, and administration of  
7 communications services;

8 provided that the commissioner shall not be employed by any  
9 state or county agency, with the exception of the University of  
10 Hawaii or the natural energy laboratory of Hawaii authority or  
11 employed or receive compensation from a telecommunications or  
12 technology entity that may be regulated by the commission at a  
13 future time or that currently has contracts with the State for  
14 the provision of goods or services.

15 (c) The commissioner shall:

16 (1) Execute the recommendations of the Hawaii broadband  
17 commission; provided that:

18 (A) Any programs and initiatives advanced by the  
19 commissioner shall first be approved by a  
20 majority vote of the commission;



- 1 (B) The commissioner may override the vote of the  
2 commission within ten days of its vote by  
3 transmitting a statement of objection; and
- 4 (C) The commission may amend the measure or override  
5 the objection of the commissioner by a vote of at  
6 least two-thirds of the members within ten days  
7 of the receipt of the commissioner's statement of  
8 objection;
- 9 (2) Act as a liaison between the State and other  
10 governmental agencies, private industry, and the  
11 general public on all matters relating to broadband  
12 technology utilization;
- 13 (3) Coordinate efforts between the State and the counties  
14 to make broadband available to underserved populations  
15 and areas;
- 16 (4) Facilitate partnerships with private industry and non-  
17 profit groups to expand broadband access;
- 18 (5) Encourage business development and investment in a  
19 broadband communications industry in the State;
- 20 (6) Assist, as needed, state, county, and federal agencies  
21 with permitting and regulatory compliance for  
22 broadband communications projects in the State,



- 1 including advocating for regulatory change to  
2 streamline the permitting processes;
- 3 (7) Assist, as needed, private entities with permitting  
4 and regulatory compliance for broadband communications  
5 projects in the State;
- 6 (8) Identify and secure sources of funding for the  
7 broadband technology projects from the state, county,  
8 and federal governments, nonprofit organizations, and  
9 private industry;
- 10 (9) Assist state and county agencies with their  
11 operational broadband needs; and
- 12 (10) Make an annual report on the activities of the  
13 commission and progress in developing expanded  
14 broadband access in the State, along with  
15 recommendations for improvements, to the governor and  
16 the legislature no later than January 31 of each year.

17 § -4 **Power and duties of the commission.** To carry out  
18 this chapter, the commission shall:

- 19 (1) Recommend policy initiatives and regulatory changes to  
20 promote expanded broadband access in the State;
- 21 (2) Recommend strategies, including changes to state and  
22 county permitting procedures, to encourage private





- 1 investment in broadband technology in Hawaii and to  
2 speed deployment of broadband technology throughout  
3 the State;
- 4 (3) Develop strategies to increase moneys available to the  
5 State for providing access to broadband in underserved  
6 populations and rural areas;
- 7 (4) Evaluate the structure and performance of the  
8 broadband commission and the commissioner and make  
9 recommendations to enable them to better perform their  
10 duties;
- 11 (5) Identify sources of federal support and funding,  
12 including military and defense initiatives that may  
13 assist Hawaii in broadband deployment; and
- 14 (6) In cooperation with the public utilities commission:  
15 (A) Develop strategies for sharing new and existing  
16 utilities infrastructures and conduits to provide  
17 expanded broadband access;
- 18 (B) Develop strategies and recommend funding sources  
19 to purchase or invest in segments of the  
20 telecommunications industry; and
- 21 (C) Perform outreach in the public schools and  
22 University of Hawaii to create educational



1                   programs and initiatives that help develop  
2                   technological skills.

3           §   -5   **Removal.**   (a)   The commissioner may be removed from  
4 office prior to the expiration of a term by a two-thirds  
5 majority vote of the commission and a two-thirds majority vote  
6 of the senate and the house of representatives.

7           (b)   A member of the commission may be removed from office  
8 prior to the expiration of a term by a two-thirds majority vote  
9 of the remaining members of the commission and a two-thirds  
10 majority vote of the senate and the house of representatives.  
11 In the event of a tie vote among the remaining members of the  
12 commission, the commissioner shall be permitted to vote on the  
13 issue of removal.

14           (c)   The commissioner may be placed on administrative leave  
15 by a two-thirds majority vote of the commission, pending an  
16 investigation into the activities of the commissioner.   The  
17 commission shall appoint a temporary commissioner in the  
18 interim.

19           §   -6   **Funds.**   In addition to any other sources of  
20 funding, moneys from the wireless enhanced 911 fund, pursuant to  
21 section 138-3, shall be used to fund the commission and the  
22 commissioner.



1           §   -7 **Employment of assistants.** The commission may  
2 appoint and employ clerks, stenographers, agents, engineers,  
3 accountants, and other assistants, with or without regard to  
4 chapter 76; provided that:

5           (1) The commission may employ utility and cable analysts  
6 exempt from chapter 76; and

7           (2) Each analyst shall possess at least the minimum  
8 qualifications required of comparable experts in the  
9 relevant industry."

10          SECTION 3. Section 138-3, Hawaii Revised Statutes, is  
11 amended to read as follows:

12          "**§138-3 Wireless enhanced 911 fund.** There is established  
13 outside the state treasury a special fund, to be known as the  
14 wireless enhanced 911 fund, to be administered by the board.  
15 The fund shall consist of amounts collected under section 138-4.  
16 The board shall place the funds in an interest-bearing account  
17 at any federally insured financial institution, separate and  
18 apart from the general fund of the State. Moneys in the fund  
19 shall be expended [~~exclusively~~] by the board for the purposes of  
20 ensuring adequate cost recovery for the deployment of phase I  
21 and phase II wireless enhanced 911 service and for expenses of  
22 administering the fund[-]; provided that \_\_\_\_\_ per cent of the



1 annual income to the fund shall be used to fund the Hawaii  
 2 broadband commission and the Hawaii broadband commissioner  
 3 pursuant to section -6. Any funds that accumulate in the  
 4 wireless enhanced 911 fund shall be retained in the fund unless  
 5 determined by the legislature to be in excess."

6 SECTION 4. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2010.

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INTRODUCED BY:

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**Report Title:**

Technology; Broadband

**Description:**

Creates the Hawaii broadband commission and the Hawaii broadband commissioner to promote and maximize availability of broadband services in the State.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

