
A BILL FOR AN ACT

RELATING TO BROADBAND.

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

1 SECTION 1. Chapter 27, Hawaii Revised Statutes, is amended
2 by adding a new section to part VII to be appropriately
3 designated and to read as follows:

4 "§27- Broadband-related permits; automatic approval.

5 (a) The State shall approve, approve with modification, or
6 disapprove all applications for broadband-related permits within
7 sixty business days of submission of a complete permit
8 application and full payment of any applicable fee; provided
9 that this subsection shall not apply to a conservation district
10 use application for broadband facilities. If, on the sixty-
11 first business day, an application is not approved, approved
12 with modification, or disapproved by the State, the application
13 shall be deemed approved by the State.

14 (b) The State shall approve, approve with modification, or
15 disapprove all conservation district use applications for
16 broadband facilities within one hundred twenty business days of
17 submission of a complete conservation district use application
18 and full payment of any applicable fee. If, on the one hundred



1 twenty-first business day, a conservation district use
2 application for broadband facilities is not approved, approved
3 with modification, or disapproved by the State, the application
4 shall be deemed approved by the State; provided that the State
5 shall have an additional sixty business days to approve, approve
6 with modification, or disapprove all conservation district use
7 applications for broadband facilities that are highly
8 complicated or technical as determined by the State.

9 (c) Permits issued pursuant to this section shall contain
10 the following language: "This is a broadband-related permit
11 issued pursuant to section 27- , Hawaii Revised Statutes."

12 (d) An applicant shall use reasonable best efforts to
13 comply with all applicable safety and engineering requirements
14 relating to the installation, improvement, construction, or
15 development of infrastructure relating to broadband service or
16 broadband technology.

17 (e) A public utility shall comply with all applicable
18 safety and engineering requirements relating to the
19 installation, improvement, construction, or development of
20 infrastructure relating to broadband service or broadband
21 technology.



1 (f) No action shall be prosecuted or maintained against
2 the State, its officials, or employees on account of actions
3 taken in reviewing, approving, modifying, or disapproving a
4 permit application pursuant to this section, or against public
5 utilities resulting from such actions.

6 (g) The sixty business day time period established by
7 subsection (a) shall be extended in the event of a natural
8 disaster, state emergency, or union strike that prevents the
9 applicant, agency, or department from fulfilling application
10 review requirements.

11 (h) If an application is incomplete, the State shall
12 notify the applicant in writing within ten business days of
13 submittal of the application. The notice shall inform the
14 applicant of the specific requirements necessary to complete the
15 application. The sixty-first business day automatic approval
16 provisions under subsection (a) shall continue to apply to the
17 application only if the applicant satisfies the specific
18 requirements of the notice and submits a complete application
19 within five business days of receipt of the notice.

20 (i) Nothing in this section shall affect the provisions of
21 section 3 of Act 151, Session Laws of Hawaii 2011.



1 (j) For the purposes of this section, "broadband-related
2 permits" means all state permits required to commence actions
3 with respect to the installation, improvement, construction, or
4 development of infrastructure relating to broadband service or
5 broadband technology, including the interconnection of
6 telecommunications cables, cable installation, tower
7 construction, placement of broadband equipment in the road
8 rights-of-way, and undersea boring, or the landing of an
9 undersea communications cable. The term does not include any
10 state permit for which the approval of a federal agency is
11 explicitly required pursuant to federal law, rule, or
12 regulation, prior to granting final permit approval by the
13 State."

14 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
15 by adding a new section to be appropriately designated and to
16 read as follows:

17 "§46- **Broadband-related permits; automatic approval.**

18 (a) A county shall approve, approve with modification, or
19 disapprove all applications for broadband-related permits within
20 sixty business days of submission of a complete permit
21 application and full payment of any applicable fee. If, on the
22 sixty-first business day, an application is not approved,



1 approved with modification, or disapproved by the county, the
2 application shall be deemed approved by the county.

3 (b) A county shall approve, approve with modification, or
4 disapprove all conservation district use applications for
5 broadband facilities within one hundred twenty business days of
6 submission of a complete conservation district use application
7 and full payment of any applicable fee. If, on the one hundred
8 twenty-first business day, a conservation district use
9 application for broadband facilities is not approved, approved
10 with modification, or disapproved by the county, the application
11 shall be deemed approved by a county; provided that a county
12 shall have an additional sixty business days to approve, approve
13 with modification, or disapprove all conservation district use
14 applications for broadband facilities that are highly
15 complicated or technical as determined by the county.

16 (c) Permits issued pursuant to this section shall contain
17 the following language: "This is a broadband-related permit
18 issued pursuant to section 46- , Hawaii Revised Statutes."

19 (d) An applicant shall use reasonable best efforts to
20 comply with all applicable safety and engineering requirements
21 relating to the installation, improvement, construction, or



1 development of infrastructure relating to broadband service or
2 broadband technology.

3 (e) A public utility shall comply with all applicable
4 safety and engineering requirements relating to the
5 installation, improvement, construction, or development of
6 infrastructure relating to broadband service or broadband
7 technology.

8 (f) No action shall be prosecuted or maintained against
9 any county, its officials, or employees on account of actions
10 taken in reviewing, approving, modifying, or disapproving a
11 permit application pursuant to this section, or against public
12 utilities resulting from such actions.

13 (g) The sixty business day time period established by
14 subsection (a) shall be extended in the event of a natural
15 disaster, state emergency, or union strike that prevents the
16 applicant, agency, or department from fulfilling application
17 review requirements.

18 (h) If an application is incomplete, the county agency
19 shall notify the applicant in writing within ten business days
20 of submittal of the application. The notice shall inform the
21 applicant of the specific requirements necessary to complete the
22 application. The sixty-first business day automatic approval



1 provisions under subsection (a) shall continue to apply to the
2 application only if the applicant satisfies the specific
3 requirements of the notice and submits a complete application
4 within five business days of receipt of the notice.

5 (i) Nothing in this section shall affect the provisions of
6 section 3 of Act 151, Session Laws of Hawaii 2011.

7 (j) For the purposes of this section, "broadband-related
8 permits" means all county permits required to commence actions
9 with respect to the installation, improvement, construction, or
10 development of infrastructure relating to broadband service or
11 broadband technology, including the interconnection of
12 telecommunications cables, cable installation, tower
13 construction, placement of broadband equipment in the road
14 rights-of-way, and undersea boring, or the landing of an
15 undersea communications cable. The term does not include any
16 county permit for which the approval of a federal agency is
17 explicitly required pursuant to federal law, rule, or
18 regulation, prior to granting final permit approval by the
19 State."

20 SECTION 3. Act 151, Session Laws of Hawaii 2011, is
21 amended by amending sections 2 and 3 to read as follows:



1 "SECTION 2. From January 1, 2012, to January 1, 2017,
2 actions relating to the installation, improvement, construction,
3 or development of infrastructure relating to broadband service
4 or broadband technology, including the interconnection of
5 telecommunications cables, shall be exempt from county
6 permitting requirements, state permitting and approval
7 requirements, which includes the requirements of chapters 171,
8 205A, and 343, Hawaii Revised Statutes, and public utilities
9 commission rules under Hawaii Administrative Rules, chapter 6-
10 73, that require existing installations to comply with new pole
11 replacement standards at the time of any construction or
12 alteration to the equipment or installation, except to the
13 extent that such permitting or approval is required by federal
14 law or is necessary to protect eligibility for federal funding,
15 services, or other assistance; provided that the installation,
16 improvement, construction, or development of infrastructure
17 shall:

18 (1) Be directly related to the improvement of existing
19 telecommunications cables or the installation of new
20 telecommunications cables:

21 (A) On existing or replacement utility poles and
22 conduits; and



- 1 (B) Using existing infrastructure and facilities;
- 2 (2) Take place within existing rights-of-way or public
- 3 utility easements or use existing telecommunications
- 4 infrastructure; and
- 5 (3) Make no significant changes to the existing public
- 6 rights-of-way, public utility easements, or
- 7 telecommunications infrastructure.

8 ~~[A person or entity]~~ An applicant shall use reasonable best
 9 efforts to comply with all applicable safety and engineering
 10 requirements relating to the installation, improvement,
 11 construction, or development of infrastructure relating to
 12 broadband service.

13 A person or entity taking any action under this section
 14 shall, at least thirty calendar days before the action is taken,
 15 provide notice to the director of commerce and consumer affairs
 16 by electronic posting in the form and on the site designated by
 17 the director for such posting on the designated central State of
 18 Hawaii Internet website; provided that notice need not be given
 19 by a public utility or government entity for an action relating
 20 to the installation, improvement, construction, or development
 21 of infrastructure relating to broadband service or broadband
 22 technology where the action taken is to provide access as the

1 owner of the existing rights-of-way, utility easements, or
2 telecommunications infrastructure.

3 SECTION 3. Consistent with federal law, no person or
4 entity shall be required to upgrade or replace an existing
5 utility pole when using that utility pole to install new
6 telecommunications cables or to improve existing
7 telecommunications cables; provided that:

8 (1) The overall weight load and the diameter of the
9 attachment on the utility pole following the
10 installation or improvement does not exceed the
11 overall weight load and diameter of the attachment
12 prior to the installation or improvement; [~~and~~]

13 (2) The overall weight load on the utility pole does not
14 exceed maximum utility pole safe weight capacities
15 established by the Federal Communications Commission
16 and the public utilities commission; and

17 [~~+2~~] (3) The utility pole is not damaged or made less safe
18 or reliable due to the installation or improvement of
19 telecommunications cables.

20 The public utilities commission may allow a public utility
21 to recover all prudently incurred costs as approved through
22 rates, charges, or clauses approved or established by the public



1 utilities commission pursuant to section 269-16, Hawaii Revised
2 Statutes, including but not limited to planning, engineering,
3 construction, installation, or replacement of utility poles
4 undertaken to accomplish the objectives of this Act. Recovery
5 of all prudently incurred costs shall also apply to a broadband
6 service provider.

7 If access to a utility pole is not granted within forty-
8 five days of a written request for access, the utility must
9 confirm the denial in writing by the forty-fifth day, consistent
10 with the requirements established by the Federal Communications
11 Commission under Title 47, Chapter 1, Code of Federal
12 Regulations. The utility's denial of access shall be specific,
13 shall include all relevant evidence and information supporting
14 its denial, and shall explain how such evidence and information
15 relate to a denial of access for reasons of lack of capacity,
16 safety, reliability, or engineering standards."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2112, and
20 shall be repealed on June 30, 2018; provided that this Act shall
21 apply to permit applications filed with the State or county
22 after December 31, 2013.



Report Title:

Broadband Permits; Automatic Approval; Construction

Description:

Requires the State and the counties to take action within sixty business days and within one hundred twenty on one hundred eighty business days for a conservation district use application for broadband facilities or the application will be deemed approved. Sets limitations on weight load for utility poles. Effective July 1, 2112, and repealed on June 30, 2018. (HB635 HD2)

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

