
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 days of submission of a complete permit application and
8 full payment of any applicable fee; provided that this
9 subsection shall not apply to a conservation district use
10 application for broadband facilities. If, on the sixty-first
11 day, an application is not approved, approved with modification,
12 or disapproved by the State, the application shall be deemed
13 approved by the State.

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



1 ninety-first day, an application is not approved, approved with
2 modification, or disapproved by the State, the application shall
3 be deemed approved by the State.

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

18 (d) Permits issued pursuant to this section shall contain
19 the following language: "This is a broadband-related permit
20 issued pursuant to section 27- , Hawaii Revised Statutes."

21 (e) An applicant and a public utility shall comply with
22 all applicable safety and engineering requirements relating to



1 the installation, improvement, construction, or development of
2 infrastructure relating to broadband service or broadband
3 technology.

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

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

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



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

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

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

19 "§46- **Broadband-related permits; automatic approval.**

20 (a) A county shall approve, approve with modification, or
21 disapprove all applications for broadband-related permits within
22 sixty days of submission of a complete permit application and



1 full payment of any applicable fee. If, on the sixty-first day,
2 an application is not approved, approved with modification, or
3 disapproved by the county, the application shall be deemed
4 approved by the county.

5 (b) A county shall approve, approve with modification, or
6 disapprove use applications for broadband facilities for the
7 protective subzones of the conservation district within ninety
8 days of submission of a complete protective subzone use
9 application and full payment of any applicable fee. If, on the
10 ninety-first day, an application is not approved, approved with
11 modification, or disapproved by the county, the application
12 shall be deemed approved by the county.

13 (c) A county shall approve, approve with modification, or
14 disapprove all conservation district use applications for
15 broadband facilities within one hundred twenty days of
16 submission of a complete conservation district use application
17 and full payment of any applicable fee; provided that this
18 subsection shall not apply to the protective subzone of the
19 conservation district. If, on the one hundred twenty-first day,
20 a conservation district use application for broadband facilities
21 is not approved, approved with modification, or disapproved by
22 the county, the application shall be deemed approved by a



1 county; provided that a county shall have an additional sixty
2 days to approve, approve with modification, or disapprove all
3 conservation district use applications for broadband facilities
4 that are highly complicated or technical as determined by the
5 county.

6 (d) Permits issued pursuant to this section shall contain
7 the following language: "This is a broadband-related permit
8 issued pursuant to section 46- , Hawaii Revised Statutes."

9 (e) An applicant and a public utility shall comply with
10 all applicable safety and engineering requirements relating to
11 the installation, improvement, construction, or development of
12 infrastructure relating to broadband service or broadband
13 technology.

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

19 (g) The sixty day time period established by subsection
20 (a) shall be extended in the event of a natural disaster, state
21 emergency, or union strike that prevents the applicant, agency,
22 or department from fulfilling application review requirements.



1 (h) If an application is incomplete, the county agency
2 shall notify the applicant in writing within ten business days
3 of submittal of the application. The notice shall inform the
4 applicant of the specific requirements necessary to complete the
5 application. The sixty-first day automatic approval provisions
6 under subsection (a) shall continue to apply to the application
7 only if the applicant satisfies the specific requirements of the
8 notice and submits a complete application within five business
9 days of receipt of the notice.

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

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



1 regulation, prior to granting final permit approval by the
2 county."

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

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



1 (1) Be directly related to the improvement of existing
2 telecommunications cables or the installation of new
3 telecommunications cables:

4 (A) On existing or replacement utility poles and
5 conduits; and

6 (B) Using existing infrastructure and facilities;

7 (2) Take place within existing rights-of-way or public
8 utility easements or use existing telecommunications
9 infrastructure; and

10 (3) Make no significant changes to the existing public
11 rights-of-way, public utility easements, or
12 telecommunications infrastructure.

13 ~~[A person or entity]~~ An applicant shall ~~[use reasonable~~
14 ~~best efforts to]~~ comply with all applicable safety and
15 engineering requirements relating to the installation,
16 improvement, construction, or development of infrastructure
17 relating to broadband service.

18 A person or entity taking any action under this section
19 shall, at least thirty calendar days before the action is taken,
20 provide notice to the director of commerce and consumer affairs
21 by electronic posting in the form and on the site designated by
22 the director for such posting on the designated central State of



1 Hawaii Internet website; provided that notice need not be given
2 by a public utility or government entity for an action relating
3 to the installation, improvement, construction, or development
4 of infrastructure relating to broadband service or broadband
5 technology where the action taken is to provide access as the
6 owner of the existing rights-of-way, utility easements, or
7 telecommunications infrastructure.

8 SECTION 3. Consistent with federal law, no person or
9 entity shall be required to upgrade or replace an existing
10 utility pole when using that utility pole to install new
11 telecommunications cables or to improve existing
12 telecommunications cables; provided that:

13 (1) The overall weight load and the diameter of the
14 attachment on the utility pole following the
15 installation or improvement does not exceed the
16 overall weight load and diameter of the attachment
17 prior to the installation or improvement; [~~and~~]

18 (2) The overall weight load on the utility pole does not
19 exceed maximum utility pole safe weight capacities
20 established by the Federal Communications Commission
21 and the public utilities commission; and



1 [~~2~~] (3) The utility pole is not damaged or made less safe
2 or reliable due to the installation or improvement of
3 telecommunications cables.

4 The public utilities commission may allow a public utility
5 to recover all prudently incurred costs as approved through
6 rates, charges, or clauses approved or established by the public
7 utilities commission pursuant to section 269-16, Hawaii Revised
8 Statutes, including but not limited to planning, engineering,
9 construction, installation, or replacement of utility poles
10 undertaken to accomplish the objectives of this Act. Recovery
11 of all prudently incurred costs shall also apply to a broadband
12 service provider.

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



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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



Report Title:

Broadband Permits; Automatic Approval; Construction

Description:

Requires the State and the counties to take action within sixty days for broadband-related permit applications; ninety days for use applications for broadband facilities for protective subzones of the conservation district use application; or one hundred twenty days for a conservation district use application for broadband facilities, or the application will be deemed approved. Establishes other requirements regarding broadband-related permits. Subjects weight load for utility poles to capacities established by the Federal Communications Commission and public utilities commission. Effective July 1, 2112. Repeals on June 30, 2018. (SD1)

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

