
A BILL FOR AN ACT

RELATING TO BROADBAND.

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 are insufficient to ensure full access to broadband services in
4 low-density rural locations and other unserved and underserved
5 areas of the State where the unit costs of providing service may
6 not provide an adequate return on investment. Economically
7 feasible deployment of infrastructure for high-speed broadband
8 across the State, especially in low population density areas,
9 presents a more formidable challenge than that faced by most
10 states that are part of one continental land mass that allows
11 for less costly options for connectivity.

12 The legislature strongly supports efforts to improve access
13 to broadband services for residents across the State as well as
14 efforts that benefit consumers and businesses in accessing
15 services. Although broadband coverage in the State is
16 widespread, additional investment could be made to bring
17 broadband access to rural communities.



1 The legislature further finds that access to broadband
2 services in unserved and underserved areas in Hawaii will
3 enhance economic development, education, health care, and
4 emergency services in the State. The availability of grants for
5 deployment to unserved and underserved areas will further those
6 objectives by encouraging new investment in broadband service
7 infrastructure.

8 The purpose of this Act is to facilitate the deployment of
9 broadband service infrastructure in unserved and underserved
10 areas of Hawaii by establishing a program to award grants to
11 deploy facilities.

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

15 **"CHAPTER**

16 **BROADBAND FUNDING PROGRAM FOR UNSERVED AND UNDERSERVED AREAS**

17 **§ -1 Definitions.** As used in this chapter, unless the
18 context indicates otherwise:

19 "Broadband service" means mass market retail services that
20 use any wireline or fixed wireless technology that provides the



1 capability to transmit data from or to all or substantially all
2 internet endpoints.

3 "Broadband service infrastructure" means the signal
4 transmission facilities and associated network equipment
5 proposed to be deployed in a project area used for the provision
6 of broadband service to residential customers.

7 "Department" means the department of business, economic
8 development, and tourism.

9 "Project" means a proposed deployment of broadband service
10 infrastructure described in an application for grant funding
11 authorized under this chapter.

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

15 "Underserved area" means a project area without access to
16 broadband service that has minimum speeds of at least fifty
17 megabits per second downstream and five megabits per second
18 upstream.

19 "Unserved area" means a project area without access to
20 broadband service that has minimum speeds of at least twenty-



1 five megabits per second downstream and three megabits per
2 second upstream.

3 **§ -2 Administration and funding.** (a) There is
4 established the broadband infrastructure grant program to
5 provide grants for eligible projects.

6 (b) The department shall administer the grant program and
7 shall be responsible for receiving and reviewing applications
8 and awarding grants.

9 **§ -3 Eligible projects.** (a) No grants shall be awarded
10 for a project unless the area to be served by the proposed
11 deployment of broadband service infrastructure is an unserved
12 area or underserved area. No grants shall be awarded for any
13 project involving the upgrade of an existing broadband plant to
14 meet the minimum speed thresholds as an unserved area or
15 underserved area.

16 (b) A project area served by the project shall be
17 described on a census block basis.

18 **§ -4 Eligible applicants.** An applicant for a grant
19 under this chapter:

20 (1) Shall be a non-governmental entity with demonstrated
21 experience in providing broadband service or other



1 communications service to residential customers within
2 the State;

3 (2) Shall not apply for or receive funds for a project
4 under any other federal or state government grant or
5 loan program; and

6 (3) At the time of application, shall agree to pay, a
7 matching funds, a minimum of twenty per cent of the
8 project costs; provided that the matching funds shall
9 not be derived from funds received by the applicant
10 through any other federal or state government grant,
11 loan, or subsidy program.

12 **§ -5 Applications.** (a) The department shall establish
13 an annual grant application period that shall be not less than
14 sixty and not more than ninety days.

15 (b) An eligible applicant shall submit an application to
16 the department on a form to be prescribed by the department. An
17 application for a grant shall include the following:

18 (1) Evidence demonstrating the applicant's experience and
19 ability in building, operating, and managing broadband
20 service networks that serve residential customers;



- 1 (2) A description of the project area, including a list of
2 census blocks to be covered by the project; provided
3 that if a census block included in an application is
4 already served in part by a provider of broadband
5 service, the application shall include a description
6 of the portions of the census block that are already
7 served and the portions of the census block that
8 constitute an unserved area or underserved area, and
9 the applicant shall certify that funds provided by the
10 grant program for the project proposed in the
11 application shall not be used to extend or deploy
12 facilities to households that are already served;
- 13 (3) A description of the project, including facilities,
14 equipment, and network capabilities, including minimum
15 speed thresholds;
- 16 (4) Evidence, including a certification by the applicant,
17 demonstrating the unserved or underserved nature of
18 the project area;
- 19 (5) An estimate of the number of new households that are
20 likely to be reached by the broadband service if the
21 project is executed;



- 1 (6) The total cost of the project and the timeframe in
- 2 which it will be completed;
- 3 (7) The amount of matching funds that the applicant
- 4 proposes to contribute and a certification that no
- 5 matching funds are derived from any other federal or
- 6 state grant, loan, or subsidy program;
- 7 (8) Evidence demonstrating the economic and commercial
- 8 feasibility of the project;
- 9 (9) A list of all government authorizations, permits, and
- 10 other approvals required or anticipated to be required
- 11 in connection with the project, and an expected
- 12 timetable for the applicant's acquisition of the
- 13 authorizations, permits, or approvals; and
- 14 (10) Any other information required by the department.

15 **§ -6 Review of applications; approval.** (a) Within five
16 business days following the end of the grant application period,
17 the department shall make the applications available for review
18 in a publicly available electronic file.

19 (b) A broadband service provider that provides service
20 within or directly adjacent to a proposed project area may
21 submit a written challenge to any application within forty-five



1 days of the public availability of the grant applications. The
2 challenge may include information that:

3 (1) Disputes an applicant's certification that a proposed
4 project area is an unserved area or underserved area
5 or that no matching funds that the applicant proposes
6 to contribute towards the project are derived from any
7 other federal or state programs; or

8 (2) Attests to the broadband service provider's existing
9 or planned provision of broadband service within an
10 applicant's project area.

11 (c) In reviewing applications and any accompanying
12 challenge, the department shall conduct its own review of
13 proposed project areas to ensure that all awarded funds are used
14 to deploy broadband service infrastructure to unserved or
15 underserved areas. The department shall not award any grants to
16 fund the deployment of broadband service infrastructure for any
17 project area that is not an unserved or underserved area.

18 (d) The department shall award grants for projects based
19 upon a scoring system that shall be made public at least thirty
20 days prior to the starting date of the grant application period.



1 The scoring system shall give the highest priority to the
2 specific criteria listed below:

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

5 (2) The experience, technical ability, and financial
6 skills of the applicant in successfully deploying and
7 providing broadband service;

8 (3) The length of time that the applicant has provided
9 broadband services in the State;

10 (4) The extent to which public financial support is
11 necessary to deploy broadband service infrastructure
12 to the proposed project area in an economically
13 feasible manner;

14 (5) The size and proportion of the matching funds from the
15 applicant;

16 (6) Whether the project area is an unserved area or an
17 underserved area;

18 (7) The service speed thresholds proposed in the
19 application and the scalability of the broadband
20 service infrastructure proposed to be deployed at



1 speeds higher than twenty-five megabits per second
2 downstream and three megabits per second upstream;

3 (8) The applicant's ability to use nearby or adjacent
4 broadband service infrastructure to facilitate the
5 project and provision of service to households;

6 (9) The extent to which the project does not duplicate
7 existing broadband service infrastructure in the
8 project area; and

9 (10) Other factors that the department deems reasonable,
10 appropriate, and consistent with the purpose of
11 facilitating the economic deployment of broadband
12 service infrastructure to unserved areas.

13 (e) In awarding grants, the department shall not consider:

14 (1) Any new or additional regulatory obligations beyond
15 those required under applicable law, including open
16 access network requirements or any rate, service, or
17 other obligations beyond the speed requirements set
18 forth under this chapter; or

19 (2) Any factors that would restrict an applicant from
20 offering or providing broadband service in the manner



1 that the applicant offers service in other areas of
2 the State without public funding support.

3 (f) The department shall allow grant recipients a
4 reasonable amount of time to complete projects for which grants
5 are awarded.

6 **§ -7 Implementation.** (a) No later than one hundred
7 eighty days after the effective date of this Act, the department
8 shall adopt rules pursuant to chapter 91 for the submission,
9 review, and approval of grant applications and the
10 administration of projects for which grants are awarded,
11 including grant agreements and recordation of awards.

12 The rules shall cover reasonable oversight and reporting
13 requirements to ensure that project funds are used as intended.
14 The rules shall not include third-party audit requirements,
15 letter of credit, security fund, performance bond obligations,
16 or any other financial commitment to secure performance other
17 than those expressly specified in this chapter. The rules shall
18 not impose any financial penalty or liquidated damages or
19 include provisions that are not reasonably related to the
20 deployment of broadband service infrastructure by a grant
21 recipient in accordance with the purposes of this chapter.



- 1 (b) Nothing in this section shall be construed to:
- 2 (1) Preclude the department from:
- 3 (A) Requiring disgorgement of grant funds in response
- 4 to a grant recipient's failure, following notice
- 5 and an opportunity to cure, to build out a
- 6 project area in accordance with the timeframes
- 7 described in its application; or
- 8 (B) Considering an applicant's financial ability to
- 9 complete the project proposed in its application
- 10 or making reasonable requests for information
- 11 necessary for the oversight and administration of
- 12 projects; or
- 13 (2) Authorize the department to impose any new or
- 14 additional regulatory requirements upon grant
- 15 recipients, through a grant agreement or any other
- 16 mechanism, other than the program implementation rules
- 17 expressly authorized under this chapter."

18 SECTION 3. This Act shall take effect upon its approval.

19

INTRODUCED BY:



JAN 23 2019



H.B. NO. 1062

Report Title:

Broadband Infrastructure; Grant Program; DBEDT

Description:

Establishes a broadband infrastructure grant program to be administered by the Department of Business, Economic Development, and Tourism.

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