A BILL FOR AN ACT

RELATING TO TELEWORK.

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

SECTION 1. The legislature finds that the global coronavirus disease 2019, or COVID-19, pandemic has placed a historic strain on the continuity of state and local government operations. As the leaders were forced to choose between providing critical services in a traditional manner and the health and safety of their employees, agencies across the State and counties scrambled to enact adequate telework policies to enable the provision of essential services. As the largest employers in the State, the State of Hawaii and the counties faced a significant risk of contributing to the State's growing infection count had they not quickly moved to employee telework policies.

The legislature further finds that even in times of non-emergency, the strain on the State's infrastructure, including its roadways and facilities, could be significantly reduced if broad, comprehensive, and coordinated telework policies were embraced throughout state and local governments. In addition,
these efforts would align with the State's larger goals of reducing carbon emissions through the reduction of overall traffic congestion on the State's roadways.

The legislature finds that the federal government took a momentous step in 2010 to enact extensive telework policies throughout its executive agencies. The enacting legislation, H.R. 1722 (2010), received broad bipartisan support in the United States Congress, including unanimous support from the Hawaii delegation, which included the late Senator Daniel K. Akaka, and late President Pro Tempore Daniel K. Inouye. The measure would go on to be signed into law by President Barack Obama.

Accordingly, the purpose of this Act is to mirror the actions of the federal government in its embrace of telework as a means of more effectively delivering government services, enhancing its continuity of operations in times of emergency, and reducing its strain on infrastructure and resources.

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

TELEWORK

§ -1 Definitions. As used in this chapter:

"Department" has the same meaning as defined in section 76-11.

"Employee" has the same meaning as defined in section 76-11.

"Telework" or "teleworking" means a flexible work arrangement under which an employee performs the duties and responsibilities of that employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

§ -2 Department requirements. (a) Not later than one hundred eighty days after the date of enactment of this chapter, the head of each department shall:

(1) Establish a policy under which eligible employees of the department may be authorized to telework;

(2) Determine the eligibility for all employees of the department to participate in telework; and

(3) Notify all employees of the department of the employees' eligibility to telework.
(b) The policy described in subsection (a) shall:

(1) Ensure that telework does not diminish employee performance or departmental operations;

(2) Require a written agreement that:

(A) Is entered into between a department manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) Is mandatory in order for any employee to participate in telework;

(3) Provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the department manager and that employee;

(4) Except in emergency situations as determined by the head of a department, not apply to any employee of the department whose official duties require on a daily basis:

(A) Direct handling of secure materials determined to be inappropriate for telework by the department head; or
(B) On-site activity that cannot be handled remotely
or at an alternate worksite; and
(5) Be incorporated as part of the continuity of
operations plans of the department in the event of an
emergency.

§ -3 Training and monitoring. (a) The head of each
department shall ensure that:

(1) An interactive telework training program is provided
to:
(A) Employees eligible to participate in the telework
program of the department; and
(B) All managers of teleworkers;
(2) Except as provided under subsection (b), an employee
has successfully completed the interactive telework
training program before that employee enters into a
written agreement to telework described under
subsection 2(b)(2);
(3) Teleworkers and non-teleworkers are treated the same
for purposes of:
(A) Periodic appraisals of job performance of
employees;
(B) Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(C) Work requirements; or

(D) Other acts involving managerial discretion; and

(4) When determining what constitutes diminished employee performance, the department shall consult any performance management guidelines of the department of human resources development issued pursuant to section -4.

(b) The head of a department may provide for an exemption from the training requirements under subsection (a), if the head of that department determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this chapter.

§ -4 Policy and support. (a) Each department shall consult with the department of human resources development in developing telework policies.

(b) The department of human resources development shall:
(1) Provide policy and policy guidance for telework in the areas of pay and leave, departmental closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

(2) Assist each department in establishing appropriate qualitative and quantitative measures and teleworking goals; and

(3) Consult with:

(A) The Hawaii emergency management agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) The department of accounting and general services on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care.

(c) The director of human resources development, in coordination with the office of enterprise technology services and department of accounting and general services, shall issue guidelines not later than one hundred eighty days after the date
of the enactment of this chapter to ensure the adequacy of
information and security protections for information and
information systems used while teleworking. Guidelines issued
under this subsection shall, at a minimum, include requirements
necessary to:

(1) Control access to departmental information and
information systems;

(2) Protect departmental information, including personally
identifiable information, and information systems;

(3) Limit the introduction of vulnerabilities;

(4) Protect information systems not under the control of
the department that are used for teleworking;

(5) Safeguard wireless and other telecommunications
capabilities that are used for teleworking; and

(6) Prevent inappropriate use of official time or
resources.

(d) Each department shall incorporate telework into the
continuity of operations plan of that department; provided that
during any period that a department is operating under a
continuity of operations plan, that plan shall supersede any
telework policy.
(e) The department of human resources development shall:
(1) Maintain a central telework website; and
(2) Include the following information on the central telework website:
   (A) Telework links;
   (B) Announcements;
   (C) Guidance developed by the department of human resources development; and
   (D) Not later than ten business days after the date of submission, guidance submitted to the department of human resources development by the Hawaii emergency management agency and department of accounting and general services.

(f) Not later than one hundred twenty days after the date of the enactment of this chapter, the director of human resources development, in coordination with the office of enterprise technology services, and the department of accounting and general services, shall issue policy guidance requiring that, when purchasing computer systems, each department purchase computer systems that enable and support telework, unless the
head of the department determines that there is a mission-
specific reason not to do so.

§ 5 Telework managing officer. (a) The head of each
department shall designate an employee of the department as the
telework managing officer. The telework managing officer shall
be established within each department's applicable human
resources division.

(b) The telework managing officer shall:

(1) Develop and implement policies related to departmental
telework programs;

(2) Serve as:

(A) An advisor for departmental leadership, including
the applicable human resources officer;

(B) A resource for managers and employees; and

(C) A primary departmental point of contact for the
department of human resources development on
telework matters; and

(3) Perform other duties as the applicable delegating
authority may assign.
(c) The telework managing officer of a department shall be a senior official of the department who has direct access to the head of the department.

(d) Nothing in this section shall be construed to prohibit an individual who holds another office or position in a department from serving as the telework managing officer for that department under this chapter.

§ -6 Reports. The department of human resources development shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session, which shall include the following:

(1) The degree of participation by employees of each department in teleworking during the period covered by the report, including the degree of participation in each bureau, division, or other major administrative unit of that department, including:

(A) The total number of employees in the department;

(B) The number and percent of employees in the department who are eligible to telework; and

(C) The number and percent of eligible employees in the department who are teleworking:
(i) Three or more days per pay period;
(ii) One or two days per pay period;
(iii) Once per month; and
(iv) On an occasional, episodic, or short-term basis;

(2) The method for gathering telework data in each department;

(3) For any department in which the total number of employees has increased or decreased by ten per cent or greater from the preceding year, the reasons for the positive or negative variation;

(4) The departmental goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (1)(C);

(5) An explanation of whether the department met the goals for the last reporting period and, if the department failed to meet these goals, the actions taken to identify and eliminate any barriers to maximizing telework opportunities for the next reporting period;
(6) An assessment of the progress each department has made in meeting departmental participation rate goals during the reporting period, and other departmental goals relating to telework, including the impact of telework on:

(A) Emergency readiness;
(B) Energy use;
(C) Recruitment and retention;
(D) Performance;
(E) Productivity; and
(F) Employee attitudes and opinions regarding telework; and

(7) The best practices in departmental telework programs.

§ -7 Telework research. (a) The director of human resources development shall:

(1) Research the utilization of telework by public and private sector entities that identify best practices and recommendations for the State;

(2) Review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, job creation and availability, urban
transportation patterns, and the ability to anticipate
the dispersal of work during periods of emergency;
provided that the director of human resources
development may require the cooperation of any
relevant subject matter department as the director
deems necessary to effectuate this subsection; and

(3) Make any studies or reviews performed under this
subsection available to the public.

(b) The director of human resources development may enter
into contracts to carry out this section pursuant to chapter
103D."

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

INTRODUCED BY: [Signature]
Report Title:
Department of Human Resources Development; Telework; Policies

Description:
Requires that each state department, board, commission, or agency develop policies under which eligible employees may be authorized to telework.

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