

I\_132\_1864-2

132nd General Assembly  
Regular Session  
2017-2018

Sub. H. B. No. 378

**A BILL**

To amend section 184.10 and to enact sections 1  
122.97, 122.971, 122.972, 122.973, 122.974, 2  
122.975, 122.976, 122.977, 122.978, 122.979, 3  
122.9710, 122.9711, and 122.9712 of the Revised 4  
Code to create the Ohio Broadband Development 5  
Grant Program and to make an appropriation. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 184.10 be amended and sections 7  
122.97, 122.971, 122.972, 122.973, 122.974, 122.975, 122.976, 8  
122.977, 122.978, 122.979, 122.9710, 122.9711, and 122.9712 of 9  
the Revised Code be enacted to read as follows: 10

**Sec. 122.97.** As used in sections 122.97 to 122.9712 of the 11  
Revised Code: 12

(A) "Broadband service" means advanced telecommunications 13  
capability that meets the benchmarks of the federal 14  
communications commission's latest annual broadband progress 15  
report, as issued pursuant to section 706 of the 16  
Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56. 17

(B) "Last-mile infrastructure" means broadband 18



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infrastructure that connects a broadband service provider's 19  
network to the end user customer's on-premise telecommunications 20  
equipment. 21

(C) "Middle-mile infrastructure" means broadband 22  
infrastructure that connects a broadband service provider's core 23  
network infrastructure to last-mile infrastructure. 24

(D) "Political subdivision" has the same meaning as in 25  
section 122.9511 of the Revised Code. 26

(E) "Unserved area" means an area that does not have 27  
broadband service according to the latest state broadband map. 28

**Sec. 122.971.** The director of development services shall 29  
establish the Ohio broadband development grant program to 30  
provide funds to extend broadband service to unserved areas of 31  
the state. 32

**Sec. 122.972.** Recipients of a grant under the Ohio 33  
broadband development grant program shall use the funds for the 34  
construction of broadband infrastructure to serve unserved 35  
areas. Construction shall include the acquisition and 36  
installation of new middle-mile or last-mile infrastructure. 37  
Construction may also include any of the following: grant- 38  
project planning, obtaining construction permits, construction 39  
of facilities, purchasing equipment, and installation and 40  
testing of the broadband service. 41

**Sec. 122.973.** The following may apply for a grant under 42  
the Ohio broadband development grant program: 43

(A) Private businesses; 44

(B) Political subdivisions; 45

(C) Nonprofit entities; 46

<u>(D) Cooperatives;</u>	47
<u>(E) Companies providing satellite services.</u>	48
<b><u>Sec. 122.974.</u></b> <u>To apply for a grant under the Ohio</u>	49
<u>broadband development grant program, an eligible applicant, as</u>	50
<u>described in section 122.973 of the Revised Code, shall submit</u>	51
<u>an application to the director of development services on a form</u>	52
<u>prescribed by the director. The application shall include all of</u>	53
<u>the following information:</u>	54
<u>(A) The location of the project;</u>	55
<u>(B) The kind and amount of broadband infrastructure to be</u>	56
<u>purchased for the project;</u>	57
<u>(C) Evidence regarding the unserved nature of the</u>	58
<u>community in which the project is to be located;</u>	59
<u>(D) The number of households that will have access to</u>	60
<u>broadband service as a result of the project, or whose broadband</u>	61
<u>service will be upgraded as a result of the project;</u>	62
<u>(E) Significant community institutions that will benefit</u>	63
<u>from the project;</u>	64
<u>(F) Evidence of community support for the project;</u>	65
<u>(G) The total cost of the project;</u>	66
<u>(H) Sources of funding or in-kind contributions for the</u>	67
<u>project that will supplement any grant award;</u>	68
<u>(I) If the applicant is a political subdivision, evidence</u>	69
<u>that not later than six weeks before submission of the</u>	70
<u>application, the applicant contacted, in writing, all broadband</u>	71
<u>service providers providing broadband service in the proposed</u>	72
<u>project area, as depicted by the latest state broadband map, to</u>	73

ask for each provider's plan to upgrade, within twenty-four 74  
months of the date that contact is made, broadband service in 75  
the project area to minimum upload and minimum download speeds 76  
that meet or exceed the benchmark upload and download speeds 77  
specified in the latest annual broadband progress report issued 78  
by the federal communications commission referenced in division 79  
(A) of section 122.97 of the Revised Code; 80

(J) Evidence of any responses by broadband service 81  
providers to the inquiries described in division (I) of this 82  
section; 83

(K) Evidence demonstrating that the eligible applicant has 84  
the financial, technical, and managerial resources necessary to 85  
complete the project and to provide ongoing maintenance and 86  
upgrades to the broadband infrastructure; 87

(L) A business plan demonstrating that the broadband 88  
service to be provided will be sustainable after the grant award 89  
is exhausted; 90

(M) Any additional information requested by the director. 91

**Sec. 122.975.** (A) The director of development services 92  
shall evaluate applications and award grants under the Ohio 93  
broadband development grant program. The director shall give 94  
priority to applications that do any or all of the following: 95

(1) Offer new or substantially upgraded broadband service 96  
to important community institutions, including, but not limited 97  
to, libraries, educational institutions, public safety 98  
facilities, and healthcare facilities; 99

(2) Facilitate the use of telemedicine and electronic 100  
health records; 101

(3) Serve economically distressed areas of the state, as 102  
measured by indices of unemployment, poverty, or population loss 103  
that are significantly greater than the statewide average; 104

(4) Provide technical support and train residents, 105  
businesses, and institutions in the community served by the 106  
project to utilize broadband service; 107

(5) Include a plan to promote the newly available 108  
broadband services in the community; 109

(6) Provide evidence of strong support for the project 110  
from citizens, government, businesses, and institutions in the 111  
community; 112

(7) Provide access to broadband service to a greater 113  
number of unserved households and businesses; 114

(8) Leverage greater amounts of funding for the project 115  
from public and private sources, including federal programs that 116  
provide financial support for the deployment of new broadband 117  
infrastructure; 118

(9) Encourage the development of new or existing 119  
industries through the use of broadband service. 120

(B) The director shall endeavor to award grants under this 121  
section to qualified applicants in geographically dispersed 122  
regions of the state. 123

(C) The director shall provide public notice of each grant 124  
awarded under the program. 125

(D) The director shall deny a grant application if any 126  
broadband service provider's written response described in 127  
division (J) of section 122.974 of the Revised Code credibly 128  
demonstrates that either of the following apply: 129

(1) The provider currently provides or has begun 130  
construction to provide broadband service in the project area at 131  
minimum upload and minimum download speeds that meet or exceed 132  
the benchmark upload and download speeds specified in the latest 133  
annual broadband progress report issued by the federal 134  
communications commission referenced in division (A) of section 135  
122.97 of the Revised Code. 136

(2) The provider credibly commits to complete construction 137  
and provide broadband service in the proposed project area at 138  
minimum upload and minimum download speeds that meet or exceed 139  
the benchmark upload and download speeds specified in the latest 140  
annual broadband progress report issued by the federal 141  
communications commission referenced in division (A) of section 142  
122.97 of the Revised Code within twenty-four months of the date 143  
the contact is made. 144

**Sec. 122.976.** Grant amounts awarded under section 122.975 145  
of the Revised Code shall not exceed the lesser of: 146

(A) Fifty per cent of the total project cost; or 147

(B) Five million dollars. 148

**Sec. 122.977.** If a recipient of a grant awarded under 149  
section 122.975 of the Revised Code does not spend all of the 150  
funds awarded to the recipient, the director of development 151  
services may, in the director's sole discretion, reallocate the 152  
unspent funds to other grant applicants, provided that the 153  
reallocation does not result in the total amount awarded to any 154  
single applicant exceeding the limit set forth in section 155  
122.976 of the Revised Code. 156

**Sec. 122.978.** An entity that provides broadband service in 157  
the state may challenge a grant awarded under section 122.975 of 158

the Revised Code on the basis that the entity already provides 159  
broadband service in the proposed project area. 160

Sec. 122.979. A challenge under section 122.978 of the 161  
Revised Code shall meet the following requirements: 162

(A) It shall be made in writing; 163

(B) It shall include evidence demonstrating that the 164  
entity provides broadband service in the proposed project area, 165  
including either of the following: 166

(1) Form 477 the entity filed with the federal 167  
communications commission for the current or preceding calendar 168  
year; 169

(2) Invoices for broadband service subscriptions for the 170  
current or preceding calendar year within the proposed project 171  
area. 172

(C) It shall be received by the director of development 173  
services not later than thirty days after public notice of the 174  
grant award is issued under division (C) of section 122.975 of 175  
the Revised Code. 176

Sec. 122.9710. The entity making a challenge under section 177  
122.978 of the Revised Code shall provide a copy of the 178  
challenge to the grant recipient. 179

Sec. 122.9711. (A) Not later than thirty days after 180  
receiving a challenge under section 122.978 of the Revised Code, 181  
the director of development services shall review the challenge 182  
and do one of the following: 183

(1) Reject the challenge on the basis of incomplete or 184  
insufficient evidence of broadband service in the project area; 185

(2) Allow the grant recipient to revise its application to 186  
remove the challenged area from the proposed project; 187

(3) Terminate the grant award and reallocate the funds to 188  
another applicant in accordance with section 122.977 of the 189  
Revised Code. 190

(B) If the director makes a determination under division 191  
(A) (2) of this section, the director shall modify the grant 192  
award for the proposed project accordingly. 193

**Sec. 122.9712.** The director of development services shall 194  
adopt rules under Chapter 119. of the Revised Code necessary to 195  
implement sections 122.97 to 122.9711 of the Revised Code. The 196  
rules shall include procedures governing the application and 197  
grant-award processes. 198

**Sec. 184.10.** As used in sections 184.10 to 184.20 of the 199  
Revised Code: 200

(A) "In-state entity" includes individuals, public and 201  
private entities, agencies, and institutions, private companies 202  
or organizations, partnerships, business trusts, or other 203  
business entities or ventures, or research organizations, 204  
whether for profit or not for profit, that have substantial 205  
presence in Ohio. 206

(B) "Research and development projects" means projects or 207  
activities in support of Ohio industry, commerce, and business, 208  
which include, without limitation, research and product 209  
innovation, development, and commercialization through efforts 210  
by, and may include collaboration among, Ohio business and 211  
industry, state and local public entities and agencies, public 212  
and private institutions, research organizations, or other in- 213  
state entities specifically formed for the sole purpose of both 214

investing in and providing direct management support to any one 215  
or combination of any of the foregoing entities or any other in- 216  
state entities. Those projects and activities also include 217  
projects and activities supporting any and all matters related 218  
to research and development purposes including: attracting 219  
researchers and research teams by endowing chairs or otherwise; 220  
developing and commercializing products and processes; 221  
promoting, developing, and securing intellectual property 222  
matters and rights such as copyrights and patents; promoting, 223  
developing, and securing property interests, including time 224  
sharing arrangements; ~~and~~ promoting, developing, and securing 225  
financial rights and matters such as royalties, licensing, and 226  
other financial gain or sharing resulting from research and 227  
development; and evaluating and overseeing the expansion of 228  
broadband service to unserved areas of the state under sections 229  
122.97 to 122.9712 of the Revised Code. 230

**Section 2.** That existing section 184.10 of the Revised 231  
Code is hereby repealed. 232

**Section 3.** All items in this section are hereby 233  
appropriated as designated out of any moneys in the state 234  
treasury to the credit of the designated fund. For all 235  
appropriations made in this act, those in the first column are 236  
for fiscal year 2018 and those in the second column are for 237  
fiscal year 2019. The appropriations made in this act are in 238  
addition to any other appropriations made for the FY 2018-FY 239  
2019 biennium. 240

DEV DEVELOPMENT SERVICES AGENCY 241

Bond Research and Development Fund Group 242

7011 195605 Broadband Development \$50,000,000 \$50,000,000 243

Grants			244
TOTAL BRD Bond Research and Development			245
Fund Group	\$50,000,000	\$50,000,000	246
TOTAL ALL BUDGET FUND GROUPS	\$50,000,000	\$50,000,000	247
BROADBAND DEVELOPMENT GRANTS			248
The foregoing appropriation item 195605, Broadband			249
Development Grants, shall be used to award grants under the Ohio			250
Broadband Development Grant Program as described in sections			251
122.97 to 122.9712 of the Revised Code.			252
Of the foregoing appropriation item 195605, Broadband			253
Development Grants, \$1,000,000 in each fiscal year shall be used			254
to contract with one or more independent organizations that have			255
experience working with Ohio broadband providers for the purpose			256
of (1) collecting broadband deployment data from Ohio broadband			257
providers; (2) verifying the data's accuracy through on-the-			258
ground testing; (3) creating annual state and county broadband			259
maps that show the availability of broadband service at various			260
upload speeds throughout the state; (4) analyzing the data to			261
help inform future investments in broadband infrastructure; (5)			262
conducting business and residential surveys that measure			263
broadband adoption and use in the state; and (6) engaging			264
communities and facilitating local technology planning to			265
provide evidence of local support for grant projects and			266
potential economic impacts of grant projects.			267
<b>Section 4.</b> Within the limits set forth in this act, the			268
Director of Budget and Management shall establish accounts			269
indicating the source and amount of funds for each appropriation			270
made in this act and shall determine the form and manner in			271
which appropriation accounts shall be maintained. Expenditures			272

from appropriations contained in this act shall be accounted for	273
as though made in Am. Sub. H.B. 49 of the 132nd General	274
Assembly.	275
The appropriations made in this act are subject to all	276
provisions of Am. Sub. H.B. 49 of the 132nd General Assembly	277
that are generally applicable to such appropriations.	278