

I\_132\_1864-3

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, 122.9712, 122.9713, and  
4  
5511.11 of the Revised Code to create the Ohio  
5  
Broadband Development Grant Program, to  
6  
encourage the Department of Transportation to  
7  
work with telecommunications providers to lay  
8  
fiber optic cable, and to make an appropriation. 9

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

**Section 1.** That section 184.10 be amended and sections 10  
122.97, 122.971, 122.972, 122.973, 122.974, 122.975, 122.976,  
11  
122.977, 122.978, 122.979, 122.9710, 122.9711, 122.9712,  
12  
122.9713, and 5511.11 of the Revised Code be enacted to read as  
13  
follows: 14

**Sec. 122.97.** As used in sections 122.97 to 122.9713 of the 15  
Revised Code: 16

(A) "Broadband service" means advanced telecommunications 17  
capability that meets the benchmarks of the federal 18



zho9rfqwykaygbfctyaxw4

communications commission's latest annual broadband progress 19  
report, as issued pursuant to section 706 of the 20  
Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56. 21

(B) "Broadband service provider" means an entity that 22  
provides broadband service. 23

(C) "Internet service" means internet access service that 24  
serves end users primarily at fixed endpoints using stationary 25  
equipment, including fixed wireless services and fixed satellite 26  
services, but does not meet the benchmarks of the federal 27  
communications commission's latest annual broadband progress 28  
report, as issued pursuant to section 706 of the 29  
Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56. 30

(D) "Internet service provider" means an entity that 31  
provides internet service. 32

(E) "Last-mile infrastructure" means broadband 33  
infrastructure that connects a broadband service provider's 34  
network to the end user customer's on-premise telecommunications 35  
equipment. 36

(F) "Middle-mile infrastructure" means broadband 37  
infrastructure that connects a broadband service provider's core 38  
network infrastructure to last-mile infrastructure. 39

(G) "Political subdivision" has the same meaning as in 40  
section 122.9511 of the Revised Code. 41

(H) "Project area" means an unserved area located within 42  
the state proposed to be served by broadband service through a 43  
grant issued under section 122.975 of the Revised Code. 44

(I) "Unserved area" means an area that does not have 45  
broadband service according to the latest state broadband map. 46

Sec. 122.971. The director of development services shall 47  
establish the Ohio broadband development grant program to 48  
provide funds to extend broadband service to unserved areas of 49  
the state. 50

Sec. 122.972. Recipients of a grant under the Ohio 51  
broadband development grant program shall use the funds for the 52  
construction of infrastructure to provide broadband service to 53  
unserved areas. Construction shall include the acquisition and 54  
installation of new middle-mile or last-mile infrastructure. 55  
Construction may also include any of the following: obtaining 56  
construction permits, construction of facilities, purchasing 57  
equipment, and installation and testing of the broadband 58  
service. 59

Sec. 122.973. The following may apply for a grant under 60  
the Ohio broadband development grant program: 61

(A) Private businesses; 62

(B) Political subdivisions; 63

(C) Nonprofit entities; 64

(D) Cooperatives. 65

Sec. 122.974. To apply for a grant under the Ohio 66  
broadband development grant program, an eligible applicant, as 67  
described in section 122.973 of the Revised Code, shall submit 68  
an application to the director of development services on a form 69  
prescribed by the director. The application shall include all of 70  
the following information: 71

(A) The location of the project area; 72

(B) The kind and amount of broadband infrastructure to be 73  
installed for the project, including proposed speeds; 74

<u>(C) Evidence that the project area is an unserved area;</u>	75
<u>(D) The number of households that will have access to broadband service as a result of the project;</u>	76 77
<u>(E) Significant community institutions that will benefit from the project;</u>	78 79
<u>(F) The total cost of the project;</u>	80
<u>(G) Sources of funding or in-kind contributions for the project that will supplement any grant award;</u>	81 82
<u>(H) The amount of grant money being sought;</u>	83
<u>(I) If the applicant is a political subdivision, evidence that not later than six weeks before submission of the application, the applicant contacted, in writing, all internet service providers providing internet service in the proposed project area, as depicted by the latest state broadband map, to ask for each internet service provider's plan to provide, within twenty-four months of the date that contact is made, broadband service in the project area to minimum upload and minimum download speeds that meet or exceed the benchmark upload and download speeds specified in the latest annual broadband progress report issued by the federal communications commission referenced in division (A) of section 122.97 of the Revised Code;</u>	84 85 86 87 88 89 90 91 92 93 94 95 96
<u>(J) Evidence of any responses by internet service providers to the inquiries described in division (I) of this section;</u>	97 98 99
<u>(K) Evidence demonstrating that the eligible applicant has the financial, technical, and managerial resources necessary to complete the project and to provide ongoing maintenance and</u>	100 101 102

<u>upgrades to the broadband infrastructure;</u>	103
<u>(L) A business plan demonstrating that the broadband</u>	104
<u>service to be provided will be sustainable after the grant award</u>	105
<u>is exhausted;</u>	106
<u>(M) Any additional information requested by the director.</u>	107
<u>Sec. 122.975. (A) The director of development services</u>	108
<u>shall evaluate applications and award grants under the Ohio</u>	109
<u>broadband development grant program. The director shall</u>	110
<u>prioritize issuance of grant awards to applicants in the</u>	111
<u>following order:</u>	112
<u>(1) Applications for project areas that have internet</u>	113
<u>service at speeds not greater than 3 megabits per second for</u>	114
<u>downloads and 768 kilobits per second for uploads as depicted by</u>	115
<u>the latest state broadband map;</u>	116
<u>(2) Applications for project areas that have internet</u>	117
<u>service at speeds of 3 megabits per second or greater for</u>	118
<u>downloads and 768 kilobits per second or greater for uploads,</u>	119
<u>but not greater than 10 megabits per second for downloads and 1</u>	120
<u>megabit per second for uploads as depicted by the latest state</u>	121
<u>broadband map;</u>	122
<u>(3) Applications for project areas that have internet</u>	123
<u>service at speeds of 10 megabits per second or greater for</u>	124
<u>downloads and 1 megabit per second or greater for uploads, but</u>	125
<u>not greater than the speed benchmarks for broadband service as</u>	126
<u>defined in division (A) of section 122.97 of the Revised Code,</u>	127
<u>as depicted by the latest state broadband map.</u>	128
<u>(B) After classifying applications by priority under</u>	129
<u>division (A) of this section, the director shall further</u>	130
<u>evaluate applications within each classification to give</u>	131

<u>priority to applications that do any or all of the following:</u>	132
<u>(1) Offer new or substantially upgraded broadband service</u>	133
<u>to important community institutions, including, but not limited</u>	134
<u>to, libraries, educational institutions, public safety</u>	135
<u>facilities, and healthcare facilities;</u>	136
<u>(2) Facilitate the use of telemedicine and electronic</u>	137
<u>health records;</u>	138
<u>(3) Serve economically distressed areas of the state, as</u>	139
<u>measured by indices of unemployment, poverty, or population loss</u>	140
<u>that are significantly greater than the statewide average;</u>	141
<u>(4) Provide technical support and train residents,</u>	142
<u>businesses, and institutions in the community served by the</u>	143
<u>project to utilize broadband service;</u>	144
<u>(5) Include a plan to promote the newly available</u>	145
<u>broadband services in the community;</u>	146
<u>(6) Provide evidence of strong support for the project</u>	147
<u>from citizens, government, businesses, and institutions in the</u>	148
<u>community;</u>	149
<u>(7) Provide access to broadband service to a greater</u>	150
<u>number of unserved households and businesses;</u>	151
<u>(8) Leverage greater amounts of funding for the project</u>	152
<u>from public and private sources, including federal programs that</u>	153
<u>provide financial support for the deployment of new broadband</u>	154
<u>infrastructure;</u>	155
<u>(9) Encourage the development of new or existing</u>	156
<u>industries through the use of broadband service.</u>	157
<u>(C) The director shall endeavor to award grants under this</u>	158

section to qualified applicants in geographically dispersed 159  
regions of the state. 160

(D) The director shall provide public notice of each grant 161  
awarded under the program. 162

(E) The director shall deny a grant application if any 163  
internet service provider's written response described in 164  
division (J) of section 122.974 of the Revised Code credibly 165  
demonstrates that either of the following apply: 166

(1) The internet service provider currently provides or 167  
has begun construction to provide broadband service in the 168  
proposed project area at minimum upload and minimum download 169  
speeds that meet or exceed the benchmark upload and download 170  
speeds specified in the latest annual broadband progress report 171  
issued by the federal communications commission referenced in 172  
division (A) of section 122.97 of the Revised Code. 173

(2) The internet service provider credibly commits to 174  
complete construction and provide broadband service in the 175  
proposed project area at minimum upload and minimum download 176  
speeds that meet or exceed the benchmark upload and download 177  
speeds specified in the latest annual broadband progress report 178  
issued by the federal communications commission referenced in 179  
division (A) of section 122.97 of the Revised Code within 180  
twenty-four months of the date the contact is made. 181

(F) (1) If the director denies funding to an applicant as a 182  
result of an internet service provider's commitment made under 183  
division (E) (2) of this section and the internet service 184  
provider does not fulfill its commitment, the director shall be 185  
prohibited for the following two grant cycles from denying 186  
funding to an applicant for the same project area on the basis 187

of the same internet service provider providing a written 188  
response under division (E) of this section. 189

(2) Division (F)(1) of this section shall not apply if the 190  
director determines that the internet service provider's failure 191  
to fulfill its commitment was the result of factors beyond the 192  
internet service provider's control. 193

**Sec. 122.976.** Grant amounts awarded under section 122.975 194  
of the Revised Code shall not exceed the lesser of: 195

(A) Fifty per cent of the total project cost; or 196

(B) Five million dollars. 197

**Sec. 122.977.** If a recipient of a grant awarded under 198  
section 122.975 of the Revised Code does not spend all of the 199  
funds awarded to the recipient, the director of development 200  
services may, in the director's sole discretion, reallocate the 201  
unspent funds to other grant applicants, provided that the 202  
reallocation does not result in the total amount awarded to any 203  
single applicant exceeding the limit set forth in section 204  
122.976 of the Revised Code. 205

**Sec. 122.978.** An entity that provides broadband service in 206  
the state may challenge a grant awarded under section 122.975 of 207  
the Revised Code on the basis that the entity already provides 208  
broadband service in the proposed project area. 209

**Sec. 122.979.** A challenge under section 122.978 of the 210  
Revised Code shall meet the following requirements: 211

(A) It shall be made in writing; 212

(B) It shall include evidence demonstrating that the 213  
entity provides broadband service in the proposed project area, 214  
including either of the following: 215



(1) Form 477 the entity filed with the federal 216  
communications commission for the current or preceding calendar 217  
year; 218

(2) Invoices for broadband service subscriptions for the 219  
current or preceding calendar year within the proposed project 220  
area. 221

(C) It shall be received by the director of development 222  
services not later than thirty days after public notice of the 223  
grant award is issued under division (D) of section 122.975 of 224  
the Revised Code. 225

**Sec. 122.9710.** The entity making a challenge under section 226  
122.978 of the Revised Code shall provide a copy of the 227  
challenge to the grant recipient. 228

**Sec. 122.9711.** (A) Not later than thirty days after 229  
receiving a challenge under section 122.978 of the Revised Code, 230  
the director of development services shall review the challenge 231  
and do one of the following: 232

(1) Reject the challenge on the basis of incomplete or 233  
insufficient evidence of broadband service in the project area; 234

(2) Allow the grant recipient to revise its application to 235  
remove the challenged area from the proposed project; 236

(3) Terminate the grant award and reallocate the funds to 237  
another applicant in accordance with section 122.977 of the 238  
Revised Code. 239

(B) If the director makes a determination under division 240  
(A) (2) of this section, the director shall modify the grant 241  
award for the proposed project accordingly. 242

**Sec. 122.9712.** An applicant that receives a grant under 243

section 122.975 of the Revised Code shall own the infrastructure 244  
installed pursuant to the grant award, and shall be responsible 245  
for ongoing maintenance and upgrades to such infrastructure. 246

Sec. 122.9713. The director of development services shall 247  
adopt rules under Chapter 119. of the Revised Code necessary to 248  
implement sections 122.97 to 122.9713 of the Revised Code. The 249  
rules shall include procedures governing the application and 250  
grant-award processes. 251

**Sec. 184.10.** As used in sections 184.10 to 184.20 of the 252  
Revised Code: 253

(A) "In-state entity" includes individuals, public and 254  
private entities, agencies, and institutions, private companies 255  
or organizations, partnerships, business trusts, or other 256  
business entities or ventures, or research organizations, 257  
whether for profit or not for profit, that have substantial 258  
presence in Ohio. 259

(B) "Research and development projects" means projects or 260  
activities in support of Ohio industry, commerce, and business, 261  
which include, without limitation, research and product 262  
innovation, development, and commercialization through efforts 263  
by, and may include collaboration among, Ohio business and 264  
industry, state and local public entities and agencies, public 265  
and private institutions, research organizations, or other in- 266  
state entities specifically formed for the sole purpose of both 267  
investing in and providing direct management support to any one 268  
or combination of any of the foregoing entities or any other in- 269  
state entities. Those projects and activities also include 270  
projects and activities supporting any and all matters related 271  
to research and development purposes including: attracting 272  
researchers and research teams by endowing chairs or otherwise; 273

developing and commercializing products and processes; 274  
promoting, developing, and securing intellectual property 275  
matters and rights such as copyrights and patents; promoting, 276  
developing, and securing property interests, including time 277  
sharing arrangements; ~~and~~ promoting, developing, and securing 278  
financial rights and matters such as royalties, licensing, and 279  
other financial gain or sharing resulting from research and 280  
development; and evaluating and overseeing the expansion of 281  
broadband service to unserved areas of the state under sections 282  
122.97 to 122.9713 of the Revised Code. 283

Sec. 5511.11. The director of transportation is hereby 284  
encouraged to work with telecommunications providers in an 285  
effort to lay fiber optic cable on or near state highways when 286  
creating new or fixing existing state highways. 287

**Section 2.** That existing section 184.10 of the Revised 288  
Code is hereby repealed. 289

**Section 3.** All items in this section are hereby 290  
appropriated as designated out of any moneys in the state 291  
treasury to the credit of the designated fund. For all 292  
appropriations made in this act, those in the first column are 293  
for fiscal year 2018 and those in the second column are for 294  
fiscal year 2019. The appropriations made in this act are in 295  
addition to any other appropriations made for the FY 2018-FY 296  
2019 biennium. 297

DEV DEVELOPMENT SERVICES AGENCY 298

Bond Research and Development Fund Group 299

7011 195605 Broadband Development \$50,000,000 \$50,000,000 300

Grants 301

TOTAL BRD Bond Research and Development			302
Fund Group	\$50,000,000	\$50,000,000	303
TOTAL ALL BUDGET FUND GROUPS	\$50,000,000	\$50,000,000	304
BROADBAND DEVELOPMENT GRANTS			305
The foregoing appropriation item 195605, Broadband			306
Development Grants, shall be used to award grants under the Ohio			307
Broadband Development Grant Program as described in sections			308
122.97 to 122.9713 of the Revised Code.			309
Of the foregoing appropriation item 195605, Broadband			310
Development Grants, \$1,000,000 in each fiscal year shall be used			311
to contract with one or more independent organizations that have			312
experience working with Ohio broadband providers for the purpose			313
of (1) collecting broadband deployment data from Ohio broadband			314
providers; (2) verifying the data's accuracy through on-the-			315
ground testing; (3) creating annual state and county broadband			316
maps that show the availability of broadband service at various			317
upload speeds throughout the state; (4) analyzing the data to			318
help inform future investments in broadband infrastructure; (5)			319
conducting business and residential surveys that measure			320
broadband adoption and use in the state; and (6) engaging			321
communities and facilitating local technology planning to			322
provide evidence of local support for grant projects and			323
potential economic impacts of grant projects.			324
<b>Section 4.</b> Within the limits set forth in this act, the			325
Director of Budget and Management shall establish accounts			326
indicating the source and amount of funds for each appropriation			327
made in this act and shall determine the form and manner in			328
which appropriation accounts shall be maintained. Expenditures			329
from appropriations contained in this act shall be accounted for			330

as though made in Am. Sub. H.B. 49 of the 132nd General	331
Assembly.	332
The appropriations made in this act are subject to all	333
provisions of Am. Sub. H.B. 49 of the 132nd General Assembly	334
that are generally applicable to such appropriations.	335