



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 378

132nd General Assembly
(As Introduced)

Reps. R. Smith and Cera, Hood, Riedel, Antonio, Carfagna, Scherer, Boggs, Hill, West, Rezabek, Sheehy, Miller, Lepore-Hagan, Bocchieri, Craig

BILL SUMMARY

Ohio Broadband Development Grant Program overview

- Establishes the Ohio Broadband Development Grant Program (Program), which seeks to provide funds to specified entities to extend broadband service to unserved areas of the state.
- Provides that the Program is to be administered by the Director of the Development Services Agency (DSA).
- Defines "broadband service" as advanced telecommunications capability that meets the minimum speed benchmarks of the Federal Communications Commission's latest *Annual Broadband Progress Report*, which is 25 megabits per second for downloads and 3 megabits per second for uploads.
- Defines "unserved area" as an area that does not have broadband service according to the latest state broadband map.

Applying for the grant

- Allows the following to apply for a grant: (1) private businesses, (2) political subdivisions, (3) nonprofit entities organized to provide telecommunications services, and (4) co-ops organized to provide phone and Internet services.
- Defines "political subdivision" as a municipal corporation, township, county, school district, or any other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

- Provides that an eligible applicant must submit an application to the DSA Director with certain required information, including, for example, project location, infrastructure details, evidence of the project area being unserved, evidence of community support and benefits, cost and funding information.
- Requires applicants that are political subdivisions to provide evidence indicating that six weeks before submitting the application, the applicant asked in writing for all broadband providers in the project area to provide any plans to upgrade service to the required minimum upload and download speeds within the next 24 months.

Evaluation of applications

- Requires the DSA Director to evaluate applications and award grants, with priority to applicants that meet certain criteria, including, for example, offering new or substantially upgraded service to community institutions, servicing economically distressed areas of the state, leveraging additional funding sources.
- Requires the DSA Director to endeavor to award grants to qualified applicants in geographically dispersed regions of the state.
- Allows the DSA Director to deny an application from a political subdivision if either of the following apply:
 - The provider currently provides or has begun construction to provide broadband service in the project area at the required minimum upload and download speeds;
 - The provider credibly commits to complete construction and provide broadband service in the proposed project area at the required minimum upload and download speeds within 24 months of the date that the political subdivision first makes required contact with the provider.

Grant amounts

- Provides that grant amounts cannot exceed the lesser of: (1) 50% of the total project cost, or (2) \$5 million.

Use of grant funds

- Requires recipients to use funds to construct broadband infrastructure to serve unserved areas, including installing middle-mile or last-mile infrastructure, grant-project planning, obtaining construction permits, constructing facilities, purchasing equipment, and installing and testing the service.

- Defines "last-mile infrastructure" as broadband infrastructure that connects a broadband service provider's network to the end user customer's on-premise telecommunications equipment.
- Defines "middle-mile infrastructure" as broadband infrastructure that connects a broadband service provider's core network infrastructure to last-mile infrastructure.
- Provides that if a recipient does not spend all of its awarded funds, the DSA Director may reallocate the unspent funds to other grant applicants, as long as the reallocation does not result in the total amount awarded to any single applicant exceeding the lesser of \$5 million or 50% of the total project cost.

Appropriation

- Appropriates \$50 million per year for FYs 2018 and 2019 through the Third Frontier Research and Development Fund, to be used to award grants under the Program.
- Requires \$1 million of the appropriation in each fiscal year to be used to contract with one or more independent organizations that have experience working with Ohio broadband providers to collect and analyze state broadband data and do other activities regarding broadband service.

Rulemaking

- Requires the DSA Director to adopt rules under Chapter 119. of the Revised Code necessary to implement the Program, which rules must include procedures governing the application and grant-award processes.

"Research and development project" under Third Frontier Commission

- Provides that evaluating and overseeing the expansion of broadband service to unserved areas of the state is considered a "research and development" project under Third Frontier Commission law, which effectively allows the Third Frontier Commission to allocate funds towards the Program.

CONTENT AND OPERATION

Ohio Broadband Development Grant Program

Overview

The bill requires the Director of the Development Services Agency (DSA) to establish the Ohio Broadband Development Grant Program (Program). The Program seeks to provide funds to extend broadband service to unserved areas of Ohio. It

incorporates the Ohio's policy to provide incentives for competing telecommunications service providers to provide advanced, high-quality telecommunications service to citizens of Ohio.¹

The bill defines "broadband service" as advanced telecommunications capability that meets the benchmarks of the latest Federal Communications Commission (FCC) *Annual Broadband Progress Report*.² The latest report was issued in 2016 and provides speed benchmarks of 25 megabits per second for downloads and 3 megabits per second for uploads.³ The bill defines "unserved area" as an area that does not have broadband service according to the latest state broadband map.⁴ Although the bill does not identify the state broadband map, it most likely refers to the broadband map maintained by Connect Ohio.⁵

Applying for the grant

Who can apply

Under the bill, the following entities may apply for a grant: (1) private businesses, (2) political subdivisions, (3) nonprofit entities organized to provide telecommunications services, and (4) co-ops organized to provide phone and Internet services.⁶

The bill defines "political subdivision" as a municipal corporation, township, county, school district, or any other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.⁷

The application

The bill provides that an eligible applicant must submit an application to the DSA Director on a form that the Director prescribes. The application must include all of the following information:

¹ R.C. 122.971; R.C. 4927.02(A)(2), not in the bill.

² R.C. 122.97(A).

³ 2016 *Broadband Progress Report*, Federal Communications Commission, Jan. 2016, at 3, https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-6A1.pdf.

⁴ R.C. 122.97(E).

⁵ *Interactive Map*, Connect Ohio, <http://connectohio.org/interactive-map> (last visited Nov. 22, 2017).

⁶ R.C. 122.973.

⁷ R.C. 122.97(D); R.C. 122.9511, not in the bill.



- The location of the project;
- The kind and amount of broadband infrastructure to be purchased for the project;
- Evidence regarding the unserved nature of the community in which the project is to be located;
- The number of households that will have access to broadband service as a result of the project, or whose broadband service will be upgraded as a result of the project;
- Significant community institutions that will benefit from the project;
- Evidence of community support for the project;
- The project's total cost;
- Sources of funding or in-kind contributions that will supplement any grant award;
- For political subdivisions, evidence that not later than six weeks before submission of the application, the applicant wrote to all broadband providers servicing the proposed project area (as depicted by the latest state broadband map) to ask for each provider's plan to upgrade, within 24 months of the writing, broadband service in the project area to the upload and download speeds that meet or exceed the FCC's benchmarks in the latest annual broadband progress report;
- Evidence of any responses by broadband service providers to the written inquiries;
- Any additional information that the Director requests.⁸

Evaluation of applications

The bill requires the DSA Director to evaluate applications and award grants under the Program. The Director must give priority to applications that do any or all of the following:

⁸ R.C. 122.974.

- Offer new or substantially upgraded broadband service to important community institutions, including libraries, educational institutions, public safety facilities, and healthcare facilities;
- Facilitate the use of telemedicine and electronic health records;
- Serve economically distressed areas of the state, as measured by indices of unemployment, poverty, or population loss that are significantly greater than the statewide average;
- Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;
- Include a plan to promote the newly available broadband services in the community;
- Provide evidence of strong support for the project from citizens, government, businesses, and institutions in the community;
- Provide access to broadband service to a greater number of unserved households and businesses;
- Leverage greater amounts of funding for the project from public and private sources, including federal programs that provide financial support for the deployment of new broadband infrastructure;
- Provide for the implementation of open access networks that offer wholesale access to network infrastructure or services;
- Encourage the development of new or existing industries through the use of broadband service.⁹

The bill requires the Director to endeavor to award grants to qualified applicants in geographically dispersed regions of the state.¹⁰

Grounds for denying an application from a political subdivision

The Director may deny an application of any political subdivision if a broadband provider's written response to the political subdivision's required inquiry credibly demonstrates either of the following:

⁹ R.C. 122.975(A).

¹⁰ R.C. 122.975(B).



- The provider currently provides or has begun construction to provide broadband service in the project area at the upload and download speeds that meet or exceed the FCC's benchmarks in the latest annual broadband progress report;
- The provider credibly commits to complete construction and provide broadband service, within 24 months of the inquiry, in the proposed project area at the upload and download speeds that meet or exceed the FCC's benchmarks in the latest annual broadband progress report.¹¹

Grant amounts to be rewarded

The bill provides that grant amounts cannot exceed the lesser of: (1) 50% of the total project cost, or (2) \$5 million.¹²

Use of grant funds

The bill requires grant recipients to use the funds to construct broadband infrastructure to serve unserved areas. Construction must include the acquiring and installing middle-mile or last-mile infrastructure. It may also include grant-project planning, obtaining construction permits, construction of facilities, purchasing equipment, and installation and testing of the broadband service.¹³

The bill defines "last-mile infrastructure" as broadband infrastructure that connects a broadband service provider's network to the end user customer's on-premise telecommunications equipment. "Middle-mile infrastructure" is broadband infrastructure that connects a broadband service provider's core network infrastructure to last-mile infrastructure.¹⁴

The bill also provides that if a recipient does not spend all of the funds awarded to the recipient, the DSA Director may, in his or her sole discretion, reallocate the unspent funds to other grant applicants, as long as the reallocation does not result in the total amount awarded to any single applicant exceeding the lesser of \$5 million or 50% of the total project cost.¹⁵

¹¹ R.C. 122.975(C).

¹² R.C. 122.976.

¹³ R.C. 122.972.

¹⁴ R.C. 122.97(B) and (C).

¹⁵ R.C. 122.977.

Appropriation

The bill appropriates \$50 million per year for FYs 2018 and 2019 through the Third Frontier Research and Development Fund, which receives proceeds from the issuance of general obligation bonds. The appropriation must be used to award grants under the Program. One million dollars of the appropriation in each fiscal year must be used to contract with one or more independent organizations that have experience working with Ohio broadband providers to do the following:

- Collect broadband deployment data from Ohio broadband providers;
- Verify the data's accuracy through on-the-ground testing;
- Create annual state and county broadband maps that show the availability of broadband service at various upload speeds throughout the state;
- Analyze the data to help inform future investments in broadband infrastructure;
- Conduct business and residential surveys that measure broadband adoption and use in the state;
- Engage communities and facilitating local technology planning to provide evidence of local support for grant projects and potential economic impacts of grant projects.¹⁶

Rule-making authority

Under the bill, the DSA Director must adopt rules under Chapter 119. of the Revised Code necessary to implement the Program. The rules must include procedures governing the application and grant-award processes.¹⁷

"Research and development project" under Third Frontier Commission

The bill provides that evaluating and overseeing the expansion of broadband service to unserved areas of Ohio is considered a "research and development" project under Third Frontier Commission law.¹⁸ This effectively grants the Third Frontier Commission the discretion to allocate funds appropriated to it towards the Program, in addition to the appropriation made in this bill (see "**Appropriation**" above).

¹⁶ Section 3.

¹⁷ R.C. 122.978.

¹⁸ R.C. 184.10.



HISTORY

ACTION

DATE

Introduced

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