

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 281

Representative Carfagna

**Cosponsors: Representatives Brenner, Hill, LaTourette, Lipps, Seitz, Smith, R.,
Thompson, Lepore-Hagan**

A BILL

To enact sections 122.09, 122.091, 122.092, 1
122.093, 122.095, 122.096, 122.097, 122.098, 2
122.0910, 122.0911, 122.0912, 122.0913, 3
122.0915, and 122.0916 of the Revised Code to 4
establish the residential broadband expansion 5
program within the Development Services Agency 6
to award matching grants for last mile broadband 7
expansion in municipal corporations and 8
townships and to make an appropriation. 9

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

Section 1. That sections 122.09, 122.091, 122.092, 10
122.093, 122.095, 122.096, 122.097, 122.098, 122.0910, 122.0911, 11
122.0912, 122.0913, 122.0915, and 122.0916 of the Revised Code 12
be enacted to read as follows: 13

Sec. 122.09. As used in sections 122.09 to 122.0916 of the 14
Revised Code: 15

(A) "Broadband funding gap" means the difference between 16
the total amount of money a broadband provider calculates is 17

necessary to construct the last mile of a specific broadband 18
telecommunications network and the total amount of money that 19
the provider has determined is the maximum amount of money that 20
is cost effective for the provider to invest in last mile 21
construction for that network. 22

(B) (1) "Broadband provider" means one of the following: 23

(a) A video service provider as defined in section 1332.21 24
of the Revised Code; 25

(b) A telecommunications service provider that is capable 26
of providing broadband service. 27

(2) "Broadband provider" does not include a publicly 28
funded broadband network service provider. 29

(C) "Broadband service" means broadband telecommunications 30
service capable of providing a minimum download speed of twenty- 31
five megabits per second and a minimum upload speed of three 32
megabits per second. 33

(D) "Eligible area" means a residential area within the 34
boundaries of a municipal corporation or township that is 35
without access to broadband service. 36

(E) "Last mile" means the last portion of a physical 37
broadband telecommunications network that connects an eligible 38
area to the broader telecommunications system. 39

(F) "Project sponsor" means a municipal corporation or 40
township that is applying for, or participating in, the 41
residential broadband expansion program established under 42
sections 122.091 to 122.0916 of the Revised Code in order to 43
provide broadband service to an eligible area. 44

(G) "Telecommunications service" has the same meaning as 45

in section 1332.21 of the Revised Code. 46

Sec. 122.091. The director of development services shall 47
establish a residential broadband expansion program to provide 48
funds to assist with residential broadband service expansion 49
projects in eligible areas. Subject to the availability of funds 50
authorized for this purpose, the development services agency 51
shall provide grants to project sponsors that apply under the 52
program to meet broadband funding gaps. 53

Sec. 122.092. A project sponsor may apply for funds under 54
the residential broadband expansion program established under 55
sections 122.091 to 122.095 of the Revised Code for the purpose 56
of providing broadband service to eligible areas within the 57
municipal corporation or township. 58

Sec. 122.093. (A) Each fiscal year, the development 59
services agency shall fund applications for residential 60
broadband expansion projects until program funds for that fiscal 61
year are no longer available. Funding for applications shall be 62
provided on a first-come, first-served basis in an amount that 63
is equal to one-third of the total cost of the broadband funding 64
gap for each project. The cumulative total of the grants for a 65
biennium shall not exceed two million dollars. 66

(B) Any application pending at the end of the fiscal year 67
shall be deemed denied, but may be refiled in a subsequent 68
fiscal year provided that all information in the application is 69
still current or has been updated. 70

Sec. 122.095. (A) Each fiscal year, the director of 71
development services shall accept applications from project 72
sponsors that are requesting funding under the residential 73
broadband expansion program established under sections 122.091 74

to 122.095 of the Revised Code. To apply for a grant, a project 75
sponsor shall submit an application to the director on a form 76
prescribed by the director. The director shall review 77
applications in the order that they are received and shall 78
review each application within sixty days after receiving it. 79

(B) An application shall include, at a minimum, the 80
following information: 81

(1) The location and description of the residential 82
broadband expansion project; 83

(2) The amount of the broadband funding gap and the amount 84
of funds requested; 85

(3) A copy of the ordinance or resolution enacted or 86
adopted under section 122.0912 of the Revised Code by the 87
legislative authority of the project sponsor; 88

(4) A copy of the resolution or memorandum of 89
understanding adopted under section 122.0913 of the Revised Code 90
by the board of county commissioners of the county in which the 91
project is located; 92

(5) A copy of the agreement between the project sponsor 93
and a broadband provider, or a written acknowledgment of the 94
agreement, that confirms the provider's commitment to construct 95
the broadband infrastructure in the eligible area of the project 96
upon receipt of payment of the total amount of the broadband 97
funding gap; 98

(6) Any other information, prescribed by rule, that the 99
director determines is necessary. 100

Sec. 122.096. (A) A residential broadband expansion 101
project under sections 122.09 to 122.0916 of the Revised Code 102

shall not proceed unless funding in an amount equal to the 103
broadband funding gap has been approved. The broadband funding 104
gap shall be funded as follows: 105

(1) One-third of the total amount shall be funded by the 106
project sponsor with municipal corporation or township video 107
service provider fees, as applicable, collected under section 108
1332.32 of the Revised Code; 109

(2) One-third of the total amount shall be funded by 110
matching funds from the county in which the project is located; 111

(3) One-third of the total amount shall be funded by a 112
residential broadband expansion grant under sections 122.091 to 113
122.095 of the Revised Code. 114

(B) The project sponsor's share described in division (A) 115
(1) of this section shall be paid by one of the following 116
methods: 117

(1) In a single lump sum payment; 118

(2) In two or more payments over a period of time. 119

(C) If the project sponsor pays its share over a period of 120
time, payments shall be in the form of a deduction from the 121
broadband provider's quarterly video service provider fee as 122
specified in the agreement established between the provider and 123
the project sponsor under section 122.098 of the Revised Code. 124

Sec. 122.097. Before submitting a residential broadband 125
expansion program application to the development services agency 126
pursuant to section 122.095 of the Revised Code, a project 127
sponsor shall do the following: 128

(A) Identify the eligible area of the residential 129
broadband expansion project for which the project sponsor will 130

<u>apply for matching funds;</u>	131
<u>(B) Contact one or more broadband providers to determine</u>	132
<u>if any provider is capable of providing broadband service to the</u>	133
<u>eligible area and willing to enter into an agreement with the</u>	134
<u>project sponsor to construct, install, and support the necessary</u>	135
<u>broadband infrastructure for the project;</u>	136
<u>(C) Determine, in conjunction with the providers, the</u>	137
<u>broadband funding gap for each provider interested in</u>	138
<u>participating in the project;</u>	139
<u>(D) Determine if the project sponsor collects or has</u>	140
<u>available sufficient video service provider fees to fund one-</u>	141
<u>third of the broadband funding gap for the project;</u>	142
<u>(E) Determine the availability of county matching funds</u>	143
<u>for the project.</u>	144
Sec. 122.098. <u>(A) A project sponsor shall review the</u>	145
<u>broadband funding gap for, and the broadband service</u>	146
<u>capabilities of, each broadband provider contacted under section</u>	147
<u>122.097 of the Revised Code and willing to participate in the</u>	148
<u>residential broadband expansion project proposed by the project</u>	149
<u>sponsor.</u>	150
<u>(B) After determining which provider would offer the best</u>	151
<u>service at the best price for the project, the project sponsor</u>	152
<u>may propose an agreement with the provider to construct,</u>	153
<u>install, and support last mile broadband service to the eligible</u>	154
<u>area. The terms of the agreement shall require that:</u>	155
<u>(1) The provider construct, install, and support last mile</u>	156
<u>broadband infrastructure to a specific eligible area of the</u>	157
<u>municipal corporation or township, as applicable;</u>	158

(2) The project sponsor remit to the provider a payment in the amount of the broadband funding gap applicable to the eligible area as determined under section 122.096 of the Revised Code; 159
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(3) The project sponsor specify whether the sponsor's share of the payment will be paid as a lump sum or deducted from the provider's quarterly video service provider fee according to a schedule of deductions over a specified period of time. 163
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Sec. 122.0910. An agreement under section 122.098 of the Revised Code is subject to the approval of the legislative authority of the project sponsor and contingent upon the distribution of funds approved for the project as provided in sections 122.095, 122.096, and 122.0912 of the Revised Code. 167
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Sec. 122.0911. After establishing the terms of an agreement under section 122.098 of the Revised Code, the project sponsor shall develop a project plan, which, at a minimum, shall include the following: 172
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(A) A specific description of the eligible area to receive broadband service under the project; 176
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(B) The total amount of the broadband funding gap, including the amount of funds to be provided by the project sponsor, the state, and the county in which the project is located; 178
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(C) A copy of the agreement with the broadband provider for the project; 182
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(D) A copy of the residential broadband expansion program application submitted to the development services agency pursuant to section 122.095 of the Revised Code; 184
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(E) A written proposal requesting county funds from the 187
county in which the project is located. 188

Sec. 122.0912. Before a residential broadband expansion 189
project under sections 122.09 to 122.0916 of the Revised Code 190
may commence, the legislative authority of the project sponsor 191
shall review the residential broadband expansion project 192
agreement and plan. Within ninety days of receiving the 193
agreement and plan, the legislative authority shall approve or 194
reject the agreement and plan. To approve the agreement and 195
plan, the legislative authority shall adopt an ordinance or 196
resolution authorizing the project sponsor to do the following: 197

(A) Enter into the project agreement with the broadband 198
provider; 199

(B) Submit the residential broadband expansion program 200
application for the project to the development services agency; 201

(C) Submit the proposal requesting matching funds for the 202
project to the appropriate county. 203

Sec. 122.0913. Upon approval of the legislative authority 204
of a project sponsor for a residential broadband expansion 205
project under sections 122.0910 and 122.0912 of the Revised 206
Code, the project sponsor shall submit to the board of county 207
commissioners of the county in which the project is located a 208
proposal requesting county matching funds for the project. The 209
request shall be for the amount equal to one-third of the 210
project's broadband funding gap as determined in section 122.096 211
of the Revised Code. 212

The board of county commissioners shall approve or reject 213
a proposal for county matching funds for the project within 214
ninety days of receiving the request. To approve the funding 215

request, the board shall adopt a resolution or a memorandum of 216
understanding authorizing the distribution of the funds to the 217
project sponsor. 218

Sec. 122.0915. The development services agency shall 219
include the following residential broadband expansion program 220
information in its annual report filed under section 121.18 of 221
the Revised Code: 222

(A) The number of program applications received; 223

(B) The number of applications that received funding under 224
the program; 225

(C) The number of miles of broadband infrastructure 226
constructed in eligible areas; 227

(D) The number of new residences receiving broadband under 228
the program. 229

Sec. 122.0916. The director of development services shall 230
adopt rules for the residential broadband expansion program 231
established under sections 122.09 to 122.0916 of the Revised 232
Code. The rules shall establish an application form and 233
application procedures for the program. The rules may include 234
requirements for a program application in addition to the 235
requirements described in section 122.095 of the Revised Code. 236

Section 2. All items in this section are hereby 237
appropriated as designated out of any moneys in the state 238
treasury to the credit of the designated fund. For all 239
appropriations made in this act, those in the first column are 240
for fiscal year 2018 and those in the second column are for 241
fiscal year 2019. The appropriations made in this act are in 242
addition to any other appropriations made for the FY 2018-FY 243
2019 biennium. 244

DEV DEVELOPMENT SERVICES AGENCY			245
Dedicated Purpose Fund Group			246
5GT0 195550	Broadband Development Grants	\$0 \$2,000,000	247
TOTAL DPF Dedicated Purpose Fund Group		\$0 \$2,000,000	248
TOTAL ALL BUDGET FUND GROUPS		\$0 \$2,000,000	249

BROADBAND DEVELOPMENT GRANTS 250

The foregoing appropriation item 195550, Broadband 251
Development Grants, shall be used to provide state matching 252
funds for the residential broadband expansion program 253
established in section 122.091 of the Revised Code. 254

On July 1, 2018, or as soon as possible thereafter, the 255
Director of Budget and Management, in consultation with the 256
Director of Development Services, shall identify within the 257
Development Services Agency's budget \$2,000,000 in unexpended, 258
unencumbered cash. When such funds have been identified, the 259
Director of Budget and Management shall transfer \$2,000,000 cash 260
from the identified sources to the Ohio Broadband Development 261
Grant Fund (Fund 5GT0), which is hereby created. 262

Section 3. Within the limits set forth in this act, the 263
Director of Budget and Management shall establish accounts 264
indicating the source and amount of funds for each appropriation 265
made in this act, and shall determine the form and manner in 266
which appropriation accounts shall be maintained. Expenditures 267
from appropriations contained in this act shall be accounted for 268
as though made in the main operating appropriations act of the 269
132nd General Assembly. 270

The appropriations made in this act are subject to all 271
provisions of the main operating appropriations act of the 132nd 272

General Assembly that are generally applicable to such 273
appropriations. 274