

**As Reported by the Senate Energy and Public Utilities Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 8**

**Senator McColley**

**Cosponsor: Senator Brenner**



**A BILL**

To amend sections 133.13 and 727.01 and to enact 1  
sections 122.40, 122.401, 122.403, 122.404, 2  
122.406, 122.407, 122.408, 122.4010, 122.4013, 3  
122.4015, 122.4016, 122.4017, 122.4018, 4  
122.4019, 122.4020, 122.4021, 122.4023, 5  
122.4024, 122.4025, 122.4030, 122.4031, 6  
122.4033, 122.4034, 122.4035, 122.4036, 7  
122.4037, 122.4040, 122.4041, 122.4043, 8  
122.4044, 122.4045, 122.4046, 122.4050, 9  
122.4051, 122.4053, 122.4055, 122.4060, 10  
122.4061, 122.4063, 122.4070, 122.4071, 11  
122.4073, 122.4075, 122.4076, 122.4077, 188.01, 12  
188.02, 188.05, 188.08, 188.11, 188.14, 188.17, 13  
188.20, 188.23, 188.27, 188.30, 303.251, 14  
505.881, 4926.01, 4926.03, 4926.06, 4926.09, 15  
4926.12, 4926.15, 4926.18, 4926.21, 4926.24, 16  
4926.27, 4926.30, 4926.33, 4926.36, 4926.39, 17  
4926.42, 4926.43, 4926.45, 4926.48, 4926.51, 18  
4926.54, 4926.57, and 4926.60 of the Revised 19  
Code regarding broadband expansion, including 20  
access to electric cooperative easements and 21  
facilities, and to make an appropriation. 22

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

**Section 1.** That sections 133.13 and 727.01 be amended and 23  
sections 122.40, 122.401, 122.403, 122.404, 122.406, 122.407, 24  
122.408, 122.4010, 122.4013, 122.4015, 122.4016, 122.4017, 25  
122.4018, 122.4019, 122.4020, 122.4021, 122.4023, 122.4024, 26  
122.4025, 122.4030, 122.4031, 122.4033, 122.4034, 122.4035, 27  
122.4036, 122.4037, 122.4040, 122.4041, 122.4043, 122.4044, 28  
122.4045, 122.4046, 122.4050, 122.4051, 122.4053, 122.4055, 29  
122.4060, 122.4061, 122.4063, 122.4070, 122.4071, 122.4073, 30  
122.4075, 122.4076, 122.4077, 188.01, 188.02, 188.05, 188.08, 31  
188.11, 188.14, 188.17, 188.20, 188.23, 188.27, 188.30, 303.251, 32  
505.881, 4926.01, 4926.03, 4926.06, 4926.09, 4926.12, 4926.15, 33  
4926.18, 4926.21, 4926.24, 4926.27, 4926.30, 4926.33, 4926.36, 34  
4926.39, 4926.42, 4926.43, 4926.45, 4926.48, 4926.51, 4926.54, 35  
4926.57, and 4926.60 of the Revised Code be enacted to read as 36  
follows: 37

Sec. 122.40. As used in sections 122.40 to 122.4077 of the 38  
Revised Code: 39

(A) "Application" means an application made under section 40  
122.4013 of the Revised Code for a program grant. 41

(B) "Broadband funding gap" means the difference between 42  
the total amount of money a broadband provider calculates is 43  
necessary to construct the last mile of a specific broadband 44  
network and the total amount of money that the provider has 45  
determined is the maximum amount of money that is cost effective 46  
for the provider to invest in last mile construction for that 47  
network. 48

(C) (1) "Broadband provider" means one of the following: 49

<u>(a) A video service provider as defined in section 1332.21</u>	50
<u>of the Revised Code;</u>	51
<u>(b) A provider that is capable of providing tier one or</u>	52
<u>tier two broadband service and is one of the following:</u>	53
<u>(i) A telecommunications service provider;</u>	54
<u>(ii) A satellite broadcasting service provider;</u>	55
<u>(iii) A wireless service provider as defined in section</u>	56
<u>4927.01 of the Revised Code.</u>	57
<u>(2) "Broadband provider" does not include a governmental</u>	58
<u>or quasi-governmental entity.</u>	59
<u>(D) "Eligible project" means a project to provide tier two</u>	60
<u>broadband service access to residences in an unserved area or</u>	61
<u>tier one area of a municipal corporation or township that is</u>	62
<u>eligible for funding under sections 122.4013 to 122.4046 of the</u>	63
<u>Revised Code.</u>	64
<u>(E) "Last mile" means the last portion of a physical</u>	65
<u>broadband network that connects an eligible project to the</u>	66
<u>broader network used to provide tier two broadband service, and</u>	67
<u>to which both of the following apply:</u>	68
<u>(1) It includes other network infrastructure in the last</u>	69
<u>portion of the network that is needed to provide tier two</u>	70
<u>broadband service to residences as part of an eligible project,</u>	71
<u>but does not include network infrastructure in any portion of</u>	72
<u>the network that is outside of the last portion.</u>	73
<u>(2) It is not required to be, or limited to, a specific</u>	74
<u>distance measurement of one mile or any other specific distance.</u>	75
<u>(F) "Ohio residential broadband expansion grant program"</u>	76

means the program established under sections 122.40 to 122.4077 77  
of the Revised Code. 78

(G) "Program grant" means money awarded under the Ohio 79  
residential broadband expansion grant program to assist in 80  
covering the broadband funding gap for an eligible project. 81

(H) "Satellite broadcasting service" has the same meaning 82  
as in section 5739.01 of the Revised Code. 83

(I) "Telecommunications service" has the same meaning as 84  
in section 1332.21 of the Revised Code. 85

(J) "Tier one broadband service" means a retail wireline 86  
or wireless broadband service capable of delivering internet 87  
access at speeds of at least ten but less than twenty-five 88  
megabits per second downstream and at least one but less than 89  
three megabits per second upstream. 90

(K) "Tier two broadband service" means a retail wireline 91  
or wireless broadband service capable of delivering internet 92  
access at speeds of at least twenty-five megabits per second 93  
downstream and at least three megabits per second upstream. 94

(L) "Tier one area" means an area that has access to tier 95  
one broadband service but not tier two broadband service. "Tier 96  
one area" includes an area where construction of a network to 97  
provide tier one broadband service is in progress and is 98  
scheduled to be completed within a two-year period. "Tier one 99  
area" excludes an area where construction of a network to 100  
provide tier two broadband service is in progress and is 101  
scheduled to be completed within a two-year period. 102

(M) "Unserved area" means an area without access to tier 103  
one broadband service or tier two broadband service. "Unserved 104  
area" excludes an area where construction of a network to 105

provide tier one broadband service or tier two broadband service 106  
is in progress and is scheduled to be completed within a two- 107  
year period. 108

**Sec. 122.401.** There is hereby established the Ohio 109  
residential broadband expansion grant program within the 110  
development services agency. The agency shall administer and 111  
provide staff assistance for the program. The agency shall be 112  
responsible for receiving and reviewing applications for program 113  
grants and for sending completed applications to the broadband 114  
expansion program authority for final review and award of 115  
program grants. 116

**Sec. 122.403.** (A) (1) There is hereby created, within the 117  
development services agency, the broadband expansion program 118  
authority, which shall consist of the director of development 119  
services or the director's designee, the director of the office 120  
of InnovateOhio or the director's designee, and three other 121  
members as follows: one member appointed by the president of the 122  
senate, one member appointed by the speaker of the house of 123  
representatives, and one member appointed by the governor. 124

(2) Appointed members shall have expertise in broadband 125  
infrastructure and technology. Appointed members may not be 126  
affiliated with or employed by the broadband industry or in a 127  
position to benefit from a program grant. 128

(3) The assignment of designees by the director of 129  
development services and the director of InnovateOhio shall be 130  
made in writing. 131

(B) Appointed members shall serve four year terms and are 132  
eligible for reappointment. 133

(C) Vacancies shall be filled in the same manner as 134

provided for original appointments. Any member appointed to fill 135  
a vacancy occurring prior to the expiration of the term for 136  
which the member's predecessor was appointed shall hold office 137  
for the remainder of that term. 138

(D) (1) (a) Appointed members shall receive a monthly 139  
stipend as calculated under section 145.016 of the Revised Code 140  
in an amount that will qualify each member for one year of 141  
retirement service credit under the Ohio public employees 142  
retirement system for each year of the member's term. 143

(b) Notwithstanding the requirement of section 145.58 of 144  
the Revised Code that eligibility for health care coverage 145  
provided under that section be based on years and types of 146  
service credit in accordance with rules adopted by the public 147  
employees retirement board, if the board provides health care 148  
coverage under that section, no service credit earned for 149  
service as a member of the authority shall be considered for 150  
purposes of determining eligibility for coverage under that 151  
section. 152

(c) Members shall receive reimbursement for their 153  
necessary and actual expenses incurred in performing the 154  
business of the authority. The reimbursements constitute, as 155  
applicable, administrative costs of the Ohio residential 156  
broadband expansion grant program. 157

(2) An appointed member of the authority who is currently 158  
serving as an administrative department head under section 159  
121.03 of the Revised Code is not eligible to receive a stipend 160  
under division (A) of this section. 161

(3) The agency shall be responsible for paying all 162  
reimbursements and stipends under this section. 163

(E) The director of development services, or the 164  
director's designee, shall serve as chairperson of the 165  
authority. The members of the authority annually shall elect a 166  
vice-chairperson from the members of the authority. Three 167  
members of the authority constitute a quorum to transact and 168  
vote on the business of the authority. An affirmative vote of 169  
three members is necessary to approve any business, including 170  
the election of the vice-chairperson. 171

(F) If the director of development services assigns a 172  
designee to serve on the authority, the director of development 173  
services shall appoint a professional employee of the 174  
development services agency to serve as the director's designee 175  
at authority meetings. In the absence of the director of 176  
development services or the director's designee, the vice- 177  
chairperson of the authority shall serve as chairperson of 178  
authority meetings. 179

(G) The authority is not an agency for purposes of 180  
sections 101.82 to 101.87 of the Revised Code. 181

**Sec. 122.404.** (A) Members of the broadband expansion 182  
program authority may attend meetings of the authority 183  
electronically by means of electronic communication if all of 184  
the following apply: 185

(1) At least three of the members attending the meeting 186  
are present in person at the place where the meeting is 187  
conducted. 188

(2) The means of electronic communication permits, for the 189  
duration of the meeting, simultaneous communication among the 190  
members attending electronically, the members attending in 191  
person, and all members of the public attending in person. 192

<u>(3) All votes taken at the meeting are to be taken by roll</u>	193
<u>call vote.</u>	194
<u>(B) Except in the case of an emergency, a member who</u>	195
<u>intends to attend a meeting by means of electronic communication</u>	196
<u>shall notify the chairperson of the member's intent not less</u>	197
<u>than forty-eight hours before the scheduled time of the meeting.</u>	198
<b><u>Sec. 122.406.</u></b> <u>The broadband expansion program authority</u>	199
<u>shall consider each application for a program grant that the</u>	200
<u>development services agency has reviewed and sent to it. The</u>	201
<u>authority shall score all applications according to the scoring</u>	202
<u>system established under section 122.4040 of the Revised Code</u>	203
<u>and award program grants based on that system according to</u>	204
<u>sections 122.4043 and 122.4044 of the Revised Code.</u>	205
<b><u>Sec. 122.407.</u></b> <u>The broadband expansion program authority</u>	206
<u>shall do the following:</u>	207
<u>(A) Continually examine, and propose updates to, any</u>	208
<u>broadband plan provided by law enacted by the general assembly</u>	209
<u>or executive order issued by the governor;</u>	210
<u>(B) Monitor the Ohio residential broadband expansion grant</u>	211
<u>program, including by doing the following:</u>	212
<u>(1) Tracking the details for annual applications to the</u>	213
<u>program, including:</u>	214
<u>(a) The number of applications;</u>	215
<u>(b) The geographic locations of the eligible projects</u>	216
<u>listed in the applications;</u>	217
<u>(c) The broadband providers submitting applications;</u>	218
<u>(d) A description of the tier two broadband infrastructure</u>	219



<u>and technology proposed in applications;</u>	220
<u>(e) A description of any public right-of-way or public</u>	221
<u>facilities to be utilized for the projects;</u>	222
<u>(f) The speeds of the tier two broadband services under</u>	223
<u>the projects;</u>	224
<u>(g) The amount of the grant funds requested for each</u>	225
<u>project and the proportion of project funding to be provided by</u>	226
<u>the broadband provider and by other entities;</u>	227
<u>(h) The number of residential and nonresidential locations</u>	228
<u>that will have access to tier two broadband service under each</u>	229
<u>project.</u>	230
<u>(2) Tracking the program grants awarded annually,</u>	231
<u>including:</u>	232
<u>(a) The number of program grants;</u>	233
<u>(b) The geographic location or locations of the projects;</u>	234
<u>(c) The broadband providers that received program grants</u>	235
<u>and the entities or companies that submitted the application;</u>	236
<u>(d) A description of the tier two broadband infrastructure</u>	237
<u>and technology deployed in each project;</u>	238
<u>(e) A description of any public right-of-way or public</u>	239
<u>facilities utilized as part of the project;</u>	240
<u>(f) The speeds of the tier two broadband services enabled</u>	241
<u>by each project;</u>	242
<u>(g) The amounts of each program grant, the share of the</u>	243
<u>project funding provided by the broadband provider, and any</u>	244
<u>share of the project funding provided by other entities;</u>	245

<u>(h) The number of residential and nonresidential locations</u>	246
<u>that will have access to tier two broadband service for each</u>	247
<u>project.</u>	248
<u>(3) Listing the amount of any unencumbered program grant</u>	249
<u>fun ds that remain available for award under the Ohio residential</u>	250
<u>broadband expansion grant program;</u>	251
<u>(4) Adding any additional factors deemed necessary by the</u>	252
<u>authority to monitor the program.</u>	253
<u>(C) Review all progress reports and operational reports</u>	254
<u>required under section 122.4070 of the Revised Code.</u>	255
<u>(D) Review all pending county requests made pursuant to</u>	256
<u>section 122.4051 of the Revised Code for program grants.</u>	257
<u>(E) Identify any best practices for, and impediments to,</u>	258
<u>the continued expansion of tier two broadband infrastructure and</u>	259
<u>technology in the state;</u>	260
<u>(F) Coordinate and promote the availability of publicly</u>	261
<u>accessible digital literacy programs to increase fluency in the</u>	262
<u>use and security of interactive digital tools and searchable</u>	263
<u>networks, including the ability to use digital tools safely and</u>	264
<u>effectively for learning, collaborating, and producing;</u>	265
<u>(G) Identify, examine, and report on any federal or state</u>	266
<u>government grant or loan program that would promote the</u>	267
<u>deployment of tier two broadband infrastructure and technology</u>	268
<u>in the state;</u>	269
<u>(H) Track the availability, location, rates and speeds,</u>	270
<u>and adoption of programs that offer tier one broadband service</u>	271
<u>and tier two broadband service in an affordable manner to low-</u>	272
<u>income consumers in this state.</u>	273

Sec. 122.408. The broadband expansion program authority 274  
shall conduct hearings to gather information necessary to 275  
accomplish the duties specified under section 122.407 of the 276  
Revised Code. 277

Sec. 122.4010. The broadband expansion program authority, 278  
upon majority approval of the authority's members, shall submit 279  
a written public report of its findings and recommendations to 280  
the governor and the general assembly not later than the first 281  
of December of each calendar year. 282

The authority shall not disclose any proprietary 283  
information or trade secrets in the report. Copies of the report 284  
shall be available on the development services agency's web 285  
site. 286

Sec. 122.4013. A broadband provider may apply for a 287  
program grant under the Ohio residential broadband expansion 288  
grant program. 289

Sec. 122.4015. Program grants under the Ohio residential 290  
broadband expansion grant program shall be awarded only for 291  
eligible projects. 292

Sec. 122.4016. An application shall be ineligible for a 293  
program grant under the Ohio residential broadband expansion 294  
grant program if either of the following applies: 295

(A) It proposes to provide tier two broadband service to 296  
areas where tier two broadband service is presently available. 297

(B) In the proposed area of service, construction of a 298  
network to provide tier two broadband service currently is in 299  
progress and one of the following applies: 300

(1) It is being constructed, without grant program 301

funding, by the broadband provider that submitted the 302  
application. 303

(2) It is scheduled to be completed by another broadband 304  
provider not later than two years after the date of a challenge 305  
submitted under section 122.4030 of the Revised Code. 306

**Sec. 122.4017.** The broadband expansion program authority 307  
shall award program grants under the Ohio residential broadband 308  
expansion grant program using funds from the Ohio residential 309  
broadband expansion grant program fund created in section 310  
122.4037 of the Revised Code. 311

**Sec. 122.4018.** (A) Each fiscal year, the development 312  
services agency shall fund program grants until funds for that 313  
fiscal year are no longer available. 314

(B) Any application pending at the end of the fiscal year 315  
shall be deemed denied, but may be refiled in a subsequent 316  
fiscal year provided that all information in the application is 317  
still current or has been updated. 318

**Sec. 122.4019.** (A) (1) Each fiscal year, the development 319  
services agency shall accept applications for program grants. 320

(2) To apply for a program grant, a broadband provider 321  
shall submit an application to the agency on a form prescribed 322  
by the agency and shall provide the information required under 323  
section 122.4020 of the Revised Code. The form shall include a 324  
statement informing the applicant that failure to comply with 325  
the program or to meet the required tier two broadband service 326  
proposed in the application may require the refund of all or a 327  
portion of the program grant awarded for the project. 328

(3) Applications may be submitted in person or by 329  
certified mail or electronic mail, or uploaded to a designated 330

agency web site for applications. 331

(B) Applications shall be accepted during a submission 332  
period specified by the broadband expansion program authority. 333  
Each submission period shall be at least sixty but not more than 334  
ninety days. Each fiscal year there shall be not more than two 335  
submission periods. 336

(C) The agency shall publish information from submitted 337  
applications on the agency's web site as follows: 338

(1) Not later than five days after the close of the 339  
submission period in which the application is made, the agency 340  
shall publish, for each completed application, the list of 341  
residential addresses included with the completed applications 342  
under division (A) (1) (a) of section 122.4020 of the Revised 343  
Code. 344

(2) Not later than thirty-five days after the close of the 345  
submission period in which the application is made, the agency 346  
shall publish all information from each completed application 347  
that it determines is not confidential under section 122.4023 of 348  
the Revised Code. 349

(D) If an application is incomplete, the agency shall 350  
notify the broadband provider that submitted the application. 351  
The notification shall list what information is incomplete and 352  
shall describe the procedure for refiling a completed 353  
application. 354

(E) The agency shall review an application determined 355  
incomplete under division (D) of this section as provided in 356  
sections 122.4019 to 122.4036 of the Revised Code if the 357  
application is completed and refiled: 358

(1) Before the end of the submission period described 359

under division (B) of this section; or 360

(2) Not later than fourteen days after the end of the 361  
submission period described under division (B) of this section, 362  
if the agency, for good cause shown, has granted the broadband 363  
provider an extension period of not more than fourteen days in 364  
which to file the completed application. 365

(F) The agency shall deny an incomplete application if the 366  
broadband provider fails to complete and refile it within the 367  
applicable submission period or extension period. Applications 368  
that are denied shall not be published on the agency's web site. 369

**Sec. 122.4020.** (A) An application for a program grant 370  
under the Ohio residential broadband expansion grant program 371  
shall include, at a minimum, the following information for an 372  
eligible project: 373

(1) The location and description of the project, 374  
including: 375

(a) The residential addresses in the unserved or tier one 376  
areas where tier two broadband service will be available 377  
following completion of the project; 378

(b) A notarized letter of intent that the broadband 379  
provider will provide access to tier two broadband service to 380  
all of the residential addresses listed in the project; 381

(c) A notarized letter of intent by the broadband provider 382  
that none of the funds provided by the program grant will be 383  
used to extend or deploy facilities to any residences other than 384  
those in the unserved or tier one areas that are part of the 385  
project. 386

(2) The amount of the broadband funding gap and the amount 387

<u>of state funds requested;</u>	388
<u>(3) The amount of any financial or in-kind contributions</u>	389
<u>to be used towards the broadband funding gap and identification</u>	390
<u>of the contribution sources, which may include, but are not</u>	391
<u>limited to, any combination of the following:</u>	392
<u>(a) Funds that the broadband provider is willing to</u>	393
<u>contribute to the broadband funding gap;</u>	394
<u>(b) Funds received or approved under any other federal or</u>	395
<u>state government grant or loan program;</u>	396
<u>(c) General revenue funds of a municipal corporation,</u>	397
<u>township, or county comprising the area of the eligible project;</u>	398
<u>(d) Other discretionary funds of the municipal</u>	399
<u>corporation, township, or county comprising the area of the</u>	400
<u>eligible project;</u>	401
<u>(e) Any alternate payment terms that the broadband</u>	402
<u>provider and any legislative authority in which the project is</u>	403
<u>located have negotiated and agreed to pursuant to section</u>	404
<u>122.4025 of the Revised Code;</u>	405
<u>(f) Contributions or grants from individuals,</u>	406
<u>organizations, or companies;</u>	407
<u>(g) Property tax assessments made by the municipal</u>	408
<u>corporation under Chapter 727. of the Revised Code, township</u>	409
<u>under section 505.881 of the Revised Code, or county under</u>	410
<u>section 303.251 of the Revised Code.</u>	411
<u>(4) The source and amount of any financial or in-kind</u>	412
<u>contributions received or approved for any part of the overall</u>	413
<u>eligible project cost, but not applied to the broadband funding</u>	414
<u>gap;</u>	415

- (5) A description of, or documentation demonstrating, the broadband provider's managerial and technical expertise and experience with broadband service projects; 416  
417  
418
- (6) Whether the broadband provider plans to use wired, wireless, or satellite technology to complete the project; 419  
420
- (7) A description of the scalability of the project; 421
- (8) The megabit-per-second broadband download and upload speeds planned for the project; 422  
423
- (9) A description of the broadband provider's customer service capabilities, including any locally based call centers or customer service offices; 424  
425  
426
- (10) A copy of the broadband provider's general customer service policies, including any policy to credit customers for service outages or the provider's failure to keep scheduled appointments for service; 427  
428  
429  
430
- (11) The length of time that the broadband provider has been operating in the state; 431  
432
- (12) Proof that the broadband provider has the financial stability to complete the project; 433  
434
- (13) A projected construction timetable, including the anticipated date of the provision of tier two broadband service access within the project; 435  
436  
437
- (14) A description of anticipated or preliminary government authorizations, permits, and other approvals required in connection with the project, and an estimated timetable for the acquisition of such approvals; 438  
439  
440  
441
- (15) A notification from the broadband provider informing 442



the development services agency of any information contained in 443  
the application, or within related documents submitted with it, 444  
that the provider considers proprietary or a trade secret; 445

(16) A notarized statement that the broadband provider 446  
accepts the condition that noncompliance with Ohio residential 447  
broadband expansion grant program requirements may require the 448  
provider to refund all or part of any program grant the provider 449  
receives; 450

(17) A brief description of any arrangements, including 451  
any subleases of infrastructure or joint ownership arrangements 452  
that the broadband provider that submitted the application has 453  
entered into, or plans to enter into, with another broadband 454  
provider, an electric cooperative, or an electric distribution 455  
utility, to enable the offering of tier two broadband service 456  
under the project; 457

(18) Other relevant information that the agency determines 458  
is necessary and prescribes by rule; 459

(19) Any other information the broadband provider 460  
considers necessary. 461

(B) To meet the requirement to provide proof of financial 462  
responsibility in the application, the broadband provider may 463  
submit publicly available financial statements with its 464  
application. 465

**Sec. 122.4021.** As a condition for receiving a program 466  
grant under the Ohio residential broadband expansion grant 467  
program, the broadband expansion program authority may require a 468  
broadband provider that is awarded a program grant to provide a 469  
performance bond, letter of credit, or other financial assurance 470  
acceptable to the authority prior to the commencement of 471

construction. The bond, letter of credit, or assurance shall be 472  
in the sum, and with the sureties, that the state prescribes and 473  
shall be payable to the state, as applicable. 474

The bond, letter of credit, or assurance may include the 475  
condition that the broadband provider will faithfully execute 476  
and complete the project. 477

The purpose of the performance bond, letter of credit, or 478  
other financial assurance is to assure completion of the 479  
project. The bond, letter of credit, or assurance shall not be 480  
required after the project is complete. 481

**Sec. 122.4023.** Pursuant to rules adopted under section 482  
122.4077 of the Revised Code, the development services agency 483  
shall evaluate the information and documents submitted by a 484  
broadband provider in an application under section 122.4013 of 485  
the Revised Code or by a challenging provider under section 486  
122.4030 of the Revised Code. The evaluation shall determine 487  
whether the information and documents are proprietary or 488  
constitute a trade secret. Upon receipt of the information and 489  
documents, the agency shall keep them confidential and shall not 490  
publish them on the agency's web site, unless the agency finds 491  
that any information or document is not proprietary or a trade 492  
secret. Any information or document found not to be proprietary 493  
or a trade secret under this section shall not be considered 494  
confidential and shall be published on the agency web site as is 495  
required for an application under division (C)(2) of section 496  
122.4019 of the Revised Code. 497

**Sec. 122.4024.** The development services agency shall 498  
establish an automatic notification process through which 499  
interested parties may receive electronic mail notifications 500  
when the agency publishes application and other information on 501

its web site pursuant to sections 122.40 to 122.4077 of the 502  
Revised Code. 503

**Sec. 122.4025.** A broadband provider may enter into an 504  
arrangement to designate video service provider fees remitted by 505  
the broadband provider for contribution towards an eligible 506  
project's broadband funding gap under the following 507  
circumstances: 508

(A) The broadband provider is a video service provider 509  
that, pursuant to section 1332.32 of the Revised Code, collects 510  
and remits video service provider fees to one or more 511  
legislative authorities in which an eligible project is located. 512

(B) The arrangement is entered into by mutual consent with 513  
one or more of the legislative authorities in which the eligible 514  
project is located. 515

**Sec. 122.4030.** (A) As used in section 122.4023 and 516  
sections 122.4030 to 122.4035 of the Revised Code, "challenging 517  
provider" means either of the following: 518

(1) A broadband provider that provides tier two broadband 519  
service within or directly adjacent to an eligible project; 520

(2) A municipal electric utility that provides tier two 521  
broadband service to an area within the eligible project that is 522  
within the geographic area served by the municipal electric 523  
utility. 524

(B) (1) (a) A challenging provider may challenge, in 525  
writing, all or part of a completed application for a program 526  
grant for the project not later than sixty-five days after the 527  
close of the submission period, or an extension granted under 528  
division (E) (2) of section 122.4019 of the Revised Code, in 529  
which the application was made. 530

(b) The development services agency, for good cause shown, 531  
may grant the broadband provider an extension of not more than 532  
fourteen days in which to submit a challenge. 533

(2) The challenging provider shall provide, by certified 534  
mail, a written copy of the challenge to the agency and to the 535  
broadband provider that submitted the application. The copy 536  
provided to the agency may include any information the 537  
challenging provider considers to be proprietary or a trade 538  
secret. Proprietary information or trade secrets may be redacted 539  
from the copy provided to the broadband provider that submitted 540  
the application. 541

(C) No challenge to an application may be accepted before 542  
the completed application is published in its entirety on the 543  
agency's web site pursuant to division (C) (2) of section 544  
122.4019 of the Revised Code. 545

**Sec. 122.4031.** (A) To successfully challenge an 546  
application, a challenging provider shall provide sufficient 547  
evidence to the development services agency demonstrating that 548  
all or part of a project under the application is ineligible for 549  
a grant. The challenge shall, at minimum, include the following 550  
information: 551

(1) Sufficient evidence disputing the notarized letter of 552  
intent submitted with the application that the eligible project 553  
contains unserved or tier one areas; 554

(2) Sufficient evidence attesting to the challenging 555  
provider's existing or planned offering of tier two broadband 556  
service to all or part of the eligible project, which evidence 557  
shall include the following: 558

(a) With regard to existing tier two broadband service, a 559

signed, notarized statement submitted by the challenging 560  
provider that sufficiently identifies the part of the eligible 561  
project to which the challenging provider offers broadband 562  
service; 563

(b) With regard to the planned provision of tier two 564  
broadband service by a challenging provider as described in 565  
division (B) of section 122.4016 of the Revised Code, both of 566  
the following: 567

(i) A signed, notarized statement submitted by the 568  
challenging provider that sufficiently identifies the part of 569  
the eligible project to which the challenging provider will 570  
offer broadband service; 571

(ii) A summary of the construction efforts that includes 572  
the dates when tier two broadband construction is expected to be 573  
completed and when tier two broadband service will first be 574  
offered to the part of the eligible project being challenged. 575

(B) To demonstrate that all or part of a project under the 576  
application is ineligible for a grant, a challenging provider 577  
may present shapefile data, residential addresses, maps, or 578  
similar geographic details. Census block or census tract level 579  
data shall not be acceptable as evidence of ineligibility of all 580  
or part of a project. 581

**Sec. 122.4033.** (A) Not later than thirty days after 582  
receipt of a challenge under sections 122.4030 to 122.4035 of 583  
the Revised Code, the broadband expansion program authority may 584  
do either of the following: 585

(1) Suspend, subject to division (B) of this section, all 586  
or part of the application; 587

(2) Reject the challenge, approve the application, and 588

proceed with the application process. 589

(B) The authority shall allow the broadband provider that 590  
submitted the application being challenged to revise the 591  
application consistent with sections 122.40 to 122.4077 of the 592  
Revised Code, if the authority upholds a challenge to all or 593  
part of the application. 594

(C) The authority shall notify both the broadband provider 595  
that submitted the application and the challenging provider of 596  
any decision made under this section by providing a copy of the 597  
decision by certified mail or electronic mail. The authority 598  
shall update the status of the application on the development 599  
services agency web site. 600

**Sec. 122.4034.** (A) If the broadband expansion program 601  
authority suspends all or part of an application, the broadband 602  
provider that submitted the application may revise and resubmit 603  
the application not later than fourteen days after receiving the 604  
suspension notification sent by the authority pursuant to 605  
section 122.4033 of the Revised Code. The broadband provider may 606  
request, and the authority may grant for good cause shown, an 607  
extension period of not more than fourteen days in which the 608  
broadband provider may resubmit the application. 609

(B) When revising the application, the broadband provider 610  
shall not expand the scope or impact of the original 611  
application, nor shall the provider add any new residential 612  
addresses to the eligible project. 613

(C) The broadband provider shall provide a copy of the 614  
revised application to both the authority and the challenging 615  
provider by certified mail or by electronic mail or by uploading 616  
it to the development services agency's designated web site for 617

applications. The agency shall publish the revised application 618  
on the agency's public web site provided that any information 619  
determined to be proprietary or a trade secret under section 620  
122.4023 of the Revised Code is redacted. 621

(D) Any failure to respond to the notification or properly 622  
revise the application to the authority's satisfaction shall be 623  
considered a withdrawal of the application. 624

**Sec. 122.4035.** Upon receipt of a revised application under 625  
section 122.4034 of the Revised Code, the broadband expansion 626  
program authority shall review the revised application and 627  
decide whether to accept it or uphold the challenge under 628  
sections 122.4030 to 122.4035 of the Revised Code within 629  
fourteen days. The authority shall provide a copy of its 630  
decision to both the broadband provider that submitted the 631  
revised application and the challenging provider by certified 632  
mail or electronic mail and shall update the status of the 633  
application on the development services agency's web site. The 634  
decision shall be considered final, and further challenges to 635  
the revised application are prohibited. 636

**Sec. 122.4036.** If the broadband expansion program 637  
authority upholds a challenge to an application under sections 638  
122.4030 to 122.4035 of the Revised Code and the challenging 639  
provider fails to provide tier two broadband service as 640  
described in the challenge, the challenging provider, after a 641  
reasonable opportunity to be heard, may be required to do either 642  
or both of the following, in addition to being subject to other 643  
remedies available under the law: 644

(A) Pay to the development services agency the amount of 645  
the original broadband funding gap described in section 122.4020 646  
of the Revised Code for the application that was challenged; 647

(B) Comply with the requirements of any other penalties 648  
prescribed by agency rule and imposed after consultation with 649  
the authority. 650

**Sec. 122.4037.** Any money collected under section 122.4036 651  
of the Revised Code and funds appropriated for the Ohio 652  
residential broadband expansion grant program shall be deposited 653  
into the Ohio residential broadband expansion grant program 654  
fund, which is hereby created in the state treasury. All amounts 655  
in the fund, including interest earned on those amounts, shall 656  
be used by the development services agency exclusively for 657  
grants under sections 122.40 to 122.4077 of the Revised Code. 658

**Sec. 122.4040.** The development services agency, in 659  
consultation with the broadband expansion program authority, 660  
shall establish a weighted scoring system to evaluate and select 661  
applications for program grants. The scoring system shall be 662  
available on the agency's web site at least thirty days before 663  
the beginning of the application submission period set by the 664  
agency by rule. 665

**Sec. 122.4041.** (A) The scoring system established under 666  
section 122.4040 of the Revised Code shall prioritize 667  
applications, from highest to lowest weight, in the following 668  
order: 669

(1) Eligible projects for unserved areas, rather than tier 670  
one areas; 671

(2) Eligible projects located within distressed areas as 672  
defined under section 122.19 of the Revised Code; 673

(3) Eligible projects that are receiving or have been 674  
approved to receive any financial or in-kind contributions 675  
towards the broadband funding gap identified in the application 676



under division (A) (3) of section 122.4020 of the Revised Code, 677  
including the amounts and proportions of the contributions; 678

(4) Eligible projects for which the proposed construction 679  
will utilize state rights-of-way or otherwise require attachment 680  
to, or use of, public facilities or conduit to provide tier two 681  
broadband service to an eligible project; 682

(5) Eligible projects based on proposed upstream and 683  
downstream speeds and the scalability of the tier two broadband 684  
service infrastructure proposed to be deployed to speeds higher 685  
than twenty-five megabits per second downstream and three 686  
megabits per second upstream; 687

(6) Eligible projects based on each of the following, in 688  
equal measure, without favoring one broadband provider over 689  
another: 690

(a) Demonstrated support, supported by evidence, for 691  
community and economic development efforts in, or adjacent to, 692  
the projects, including the provision of tier two broadband 693  
service to commercial and nonresidential entities as a result 694  
of, but not funded directly by, the program; 695

(b) The broadband provider's experience, technical 696  
ability, and financial capability in successfully deploying and 697  
providing tier two broadband service; 698

(c) The length of time the broadband provider has been 699  
providing tier two broadband service in the state; 700

(d) The extent to which funding is necessary to deploy 701  
tier two broadband service infrastructure in an economically 702  
feasible manner to the eligible project; 703

(e) The ability of the broadband provider to leverage 704

nearby or adjacent tier one or tier two broadband service 705  
infrastructure to facilitate the proposed deployment and 706  
provision of tier two broadband service to the eligible project; 707

(f) If existing tier one or tier two broadband service 708  
infrastructure exists in the area of the eligible project, the 709  
extent to which the project utilizes or upgrades the existing 710  
tier one or tier two infrastructure, rather than duplicates it; 711

(g) The eligible projects' location within Ohio 712  
opportunity zones as defined under division (A)(2) of section 713  
122.84 of the Revised Code. 714

(B) The development services agency may include in the 715  
weighted scoring system any other factors it determines to be 716  
reasonable, appropriate, and consistent with the purpose of 717  
facilitating the economic deployment of tier two broadband 718  
service to unserved or tier one areas. The factors included 719  
under this division shall be considered after the weighted 720  
factors described in division (A) of this section. 721

**Sec. 122.4043.** (A) The broadband expansion program 722  
authority shall award program grants under the Ohio residential 723  
broadband expansion grant program after reviewing applications 724  
sent to the authority by the development services agency. Awards 725  
shall be granted after the authority scores applications based 726  
on the scoring system under sections 122.4040 and 122.4041 of 727  
the Revised Code. 728

(B) In awarding program grants, the authority shall 729  
consider all regulatory obligations under applicable law. The 730  
authority may not consider any of the following: 731

(1) Proposed project conditions that require open access 732  
networks or that establish a specific rate, service, or other 733

obligation not specified for the Ohio residential broadband expansion grant program; 734  
735

(2) Factors that would constrain a broadband provider that receives a grant from offering or providing tier two broadband service in the same manner as the service is offered by broadband providers in other areas of the state without funding from the Ohio residential broadband expansion grant program. 736  
737  
738  
739  
740

(C) Upon making the program grant awards, the authority shall notify the broadband providers that submitted applications of the award decisions. The authority shall publish the program grant awards on the agency's web site. 741  
742  
743  
744

**Sec. 122.4044.** After the broadband expansion program authority awards a program grant under section 122.4043 of the Revised Code, the development services agency shall disburse the program grant as follows: 745  
746  
747  
748

(A) A portion of the program grant, not to exceed thirty per cent, shall be disbursed before construction of the project begins. 749  
750  
751

(B) A portion of the program grant, not to exceed sixty per cent, shall be disbursed through periodic payments over the course of construction of the eligible project as determined by the agency by rules adopted under section 122.4077 of the Revised Code. 752  
753  
754  
755  
756

(C) The remaining portion shall be disbursed not later than sixty days after the broadband provider notifies the authority that it has completed construction of the project. 757  
758  
759

**Sec. 122.4045.** (A) The development services agency may, through an independent third party, conduct speed verification tests of an eligible project that receives a program grant. Such 760  
761  
762

tests shall occur as follows: 763

(1) After the construction is complete, but prior to the 764  
final disbursement made under division (C) of section 122.4044 765  
of the Revised Code to verify that tier two broadband service is 766  
being offered; 767

(2) At any time during the reporting period required under 768  
division (B) of section 122.4070 of the Revised Code, after 769  
receiving a complaint concerning a residence that is part of the 770  
eligible project. 771

(B) To evaluate compliance with tier two broadband service 772  
standards, speed verification tests conducted under this section 773  
shall be conducted on at least two different days and at two 774  
different times on each of those days. 775

(C) The agency may withhold payments under this section 776  
for failure to meet at least the minimum speeds required under 777  
division (A) (8) of section 122.4020 of the Revised Code. 778  
Payments may be held until such speeds are achieved. 779

**Sec. 122.4046.** (A) If the development services agency 780  
determines that a broadband provider that has been awarded a 781  
program grant under the Ohio residential broadband expansion 782  
grant program has not complied with the requirements of the 783  
program, the agency shall notify the provider of the 784  
noncompliance. In accordance with rules adopted by the agency 785  
under section 122.4077 of the Revised Code, the agency shall 786  
give the provider an opportunity to explain or cure the 787  
noncompliance. 788

(B) After reviewing the broadband provider's explanation 789  
or effort to cure the noncompliance, the following shall apply: 790

(1) The agency may require the provider to refund an 791

amount equal to all, or a portion of, the amount of the program 792  
grant awarded to the provider, as determined by the agency. 793

(2) The agency may require the broadband provider to 794  
refund to the appropriate municipal corporation, township, or 795  
county the entire amount of general revenue funds or other 796  
discretionary funds that it contributed toward the broadband 797  
funding gap under division (A) (3) (c) or (d) of section 122.4020 798  
of the Revised Code. 799

(C) Not more than thirty days after the agency's decision 800  
requiring a refund for program noncompliance or a failure to 801  
explain or cure it, the broadband provider shall pay the refund 802  
required under division (B) of this section. Payments shall be 803  
made directly to the municipal corporation, township, or county 804  
that contributed funds toward the broadband funding gap. 805

**Sec. 122.4050.** Upon adoption of a resolution, a board of 806  
county commissioners may request the development services agency 807  
to solicit applications from broadband providers for program 808  
grants under the Ohio residential broadband expansion grant 809  
program for eligible projects in the municipal corporations and 810  
townships of the county. 811

A request made by a county shall identify, to the extent 812  
possible, the residential addresses in unserved or tier one 813  
areas of the county and provide a point of contact at the county 814  
and the municipal corporations and townships in which the 815  
addresses are located. The request may include any relevant 816  
information, documents, or materials that may be helpful for an 817  
application. 818

**Sec. 122.4051.** Upon receipt of a request from a board of 819  
county commissioners pursuant to section 122.4050 of the Revised 820

Code, the development services agency shall solicit, on behalf 821  
of the county, applications for program grants for eligible 822  
projects under the Ohio residential broadband expansion grant 823  
program. Not later than seven days after receipt of the request, 824  
the agency shall make the request, and any accompanying 825  
information submitted with the request, available for review on 826  
the agency's web site. The request shall remain available on the 827  
web site for a period not to exceed two years. 828

**Sec. 122.4053.** An application for a program grant under 829  
the Ohio residential broadband expansion grant program made in 830  
response to a request under section 122.4050 of the Revised Code 831  
shall fully comply with all of the program requirements. Nothing 832  
in sections 122.4050, 122.4051, and 122.4053 of the Revised Code 833  
shall be construed as providing relief from compliance with any 834  
program requirements. 835

**Sec. 122.4055.** The development services agency shall not 836  
be responsible for any failure by a broadband provider to 837  
respond to a request made by the agency pursuant to section 838  
122.4051 of the Revised Code or to submit an application for a 839  
program grant under the Ohio residential broadband expansion 840  
grant program. 841

**Sec. 122.4060.** (A) An eligible project shall not proceed 842  
unless the broadband expansion program authority awards a 843  
program grant under section 122.4043 of the Revised Code. 844

(B) After receiving a program grant award, the broadband 845  
provider shall construct and install last mile broadband 846  
infrastructure to the eligible project. 847

**Sec. 122.4061.** Under alternate payment term arrangements 848  
made under section 122.4025 of the Revised Code, unless 849

otherwise negotiated, the participating legislative authorities 850  
in which the eligible project is located shall assume all 851  
financial responsibility for all of the eligible project costs 852  
incurred by the broadband provider prior to completion of the 853  
project or the award of a program grant. 854

**Sec. 122.4063.** (A) Nothing in sections 122.40 to 122.4077 855  
of the Revised Code entitles the state of Ohio, the development 856  
services agency, the broadband expansion program authority, or 857  
any other governmental entity to any ownership or other rights 858  
to broadband infrastructure constructed by a broadband provider 859  
pursuant to a program grant awarded to an eligible project. 860

(B) Nothing in sections 122.40 to 122.4077 of the Revised 861  
Code prevents an assignment, sale, change in ownership, or other 862  
similar transaction associated with broadband infrastructure 863  
constructed by a broadband provider pursuant to a program grant 864  
awarded to an eligible project. No assignment, sale, change in 865  
ownership, or other similar transaction relieves the successor 866  
of any obligation under sections 122.40 to 122.4077 of the 867  
Revised Code. 868

**Sec. 122.4070.** (A) Each broadband provider that receives a 869  
program grant shall submit to the development services agency an 870  
annual progress report on the status of the deployment of the 871  
broadband network described in the eligible project for which 872  
the program grant award was made. 873

(B) The broadband provider shall submit an operational 874  
report with the agency not later than sixty days after the 875  
completion of the project and annually thereafter for a period 876  
of four years. 877

**Sec. 122.4071.** (A) The reports required under section 878

122.4070 of the Revised Code and except as provided in section 879  
122.4075 of the Revised Code, all information and documents in 880  
them shall be in a format specified by the development services 881  
agency and shall be publicly available on the agency's web site. 882

(B) In each report, the broadband provider shall include 883  
an account of how program grant funds have been used and the 884  
project's progress toward fulfilling the objectives for which 885  
the program grant was awarded. The reports, at a minimum, shall 886  
include the following: 887

(1) The number of residences that have access to tier two 888  
broadband services as a result of the eligible project; 889

(2) The number of commercial and nonresidential entities 890  
that are not funded directly by the grant program but have 891  
access to tier two broadband service as a result of the eligible 892  
project; 893

(3) The upstream and downstream speed of the broadband 894  
service provided; 895

(4) The average price of broadband service; 896

(5) The number of broadband service subscriptions 897  
attributable to the program grant. 898

**Sec. 122.4073.** The development services agency may set a 899  
due date for the reports required under section 122.4070 of the 900  
Revised Code and, for good cause shown, may grant extensions of 901  
the report due dates. 902

**Sec. 122.4075.** Reports required under section 122.4070 of 903  
the Revised Code, and all information and documents in them, 904  
shall be maintained on a confidential basis by the development 905  
services agency and shall not be published on the agency's web 906



site until the agency determines what information or documents 907  
are not confidential pursuant to section 122.4023 of the Revised 908  
Code. 909

**Sec. 122.4076.** (A) The broadband expansion program 910  
authority shall complete an annual report for the Ohio 911  
residential broadband expansion grant program. The report shall 912  
evaluate the success of the program grants awarded under section 913  
122.4043 of the Revised Code in making tier two broadband 914  
services available to unserved and tier one areas. The report 915  
shall include the following information: 916

(1) The number of applications received; 917

(2) The number of applications that received program 918  
grants; 919

(3) The amount of broadband infrastructure constructed for 920  
eligible projects; 921

(4) The number of residences receiving, for that year, 922  
tier two broadband service for the first time under the program; 923

(5) Findings and recommendations that have been agreed to 924  
by a majority of the authority members. 925

(B) The report shall be published on the development 926  
services agency's web site and shall be included as part of the 927  
agency's annual report filed under section 121.18 of the Revised 928  
Code. The authority shall present the report annually to the 929  
governor and the general assembly not later than the first of 930  
December of each calendar year. 931

**Sec. 122.4077.** (A) The development services agency shall 932  
adopt rules for the Ohio residential broadband expansion grant 933  
program. The rules shall establish an application form and 934

<u>application procedures for the program and procedures for</u>	935
<u>periodic program grant disbursements.</u>	936
<u>(B) The rules may include the following:</u>	937
<u>(1) Requirements for a program application in addition to</u>	938
<u>the requirements described in section 122.4020 of the Revised</u>	939
<u>Code;</u>	940
<u>(2) Procedures for and circumstances under which partial</u>	941
<u>funding of applications is permitted;</u>	942
<u>(3) Procedures for broadband expansion program authority</u>	943
<u>meetings, extension periods for applications and application</u>	944
<u>challenges, hearings, and opportunities for public comment.</u>	945
<u>(C) The agency may adopt rules and procedures to implement</u>	946
<u>sections 122.4051, 122.4053, and 122.4055 of the Revised Code.</u>	947
<u>(D) Rules adopted under this section are not subject to</u>	948
<u>section 121.95 of the Revised Code.</u>	949
<u>(E) The agency and the authority are not subject to</u>	950
<u>division (F) of section 121.95 of the Revised Code regarding the</u>	951
<u>development and adoption of rules pursuant to this section.</u>	952
<b>Sec. 133.13.</b> If the special assessments are to be paid in	953
one annual installment, the taxing authority of a subdivision	954
may issue securities in anticipation of its levy or collection	955
of special assessments to pay the costs of <u>the subdivision's</u>	956
<u>broadband funding gap portion for an eligible project under</u>	957
<u>sections 122.40 to 122.4077 of the Revised Code, lighting,</u>	958
sprinkling, sweeping, cleaning, providing related or similar	959
services or the services described in section 727.011 of the	960
Revised Code, or of removing snow, ice, and debris from, or	961
treating the surface of, streets, alleys, and public ways and	962

places. 963

Such securities shall not be general obligations of the 964  
issuing subdivision, and shall not pledge to the payment of debt 965  
charges any receipts other than the special assessments 966  
anticipated, except that a municipal corporation, without 967  
incurring debt subject to direct or indirect debt limitations, 968  
may also pledge and apply proceeds of its municipal income tax 969  
to pay those debt charges. No property tax shall be levied or 970  
pledged for the payment of debt charges on the securities. The 971  
securities shall mature no later than the last day of December 972  
of the year in which the special assessments anticipated are 973  
scheduled to be collected. 974

The legislation authorizing the securities shall 975  
appropriate the special assessments anticipated, and such 976  
special assessments shall be deemed to be pledged and 977  
appropriated, first to the payment of the debt charges on the 978  
securities. After provision has been made for the payment in 979  
full of those debt charges, the balance of the special 980  
assessments may be appropriated and applied for the purposes for 981  
which they were levied. 982

Sec. 188.01. As used in sections 188.01 to 188.23 of the 983  
Revised Code: 984

(A) "Broadband service" means any wholesale or retail 985  
service that consists of, or includes the provision of, 986  
connectivity to a high-speed, high-capacity transmission medium 987  
that can carry signals from or to multiple sources and that 988  
either provides access to the internet or provides computer 989  
processing, information storage, information content or protocol 990  
conversion, including any service applications or information 991  
service provided over such high-speed access service. "Broadband 992

<u>service" includes video service, voice over internet protocol</u>	993
<u>service, and internet protocol-enabled services.</u>	994
<u>(B) "Electric cooperative" has the same meaning as in</u>	995
<u>section 4928.01 of the Revised Code.</u>	996
<u>(C) "Internet protocol-enabled services" and "voice over</u>	997
<u>internet protocol service" have the same meanings as in section</u>	998
<u>4927.01 of the Revised Code.</u>	999
<u>(D) "Servient estate" means the land burdened by an</u>	1000
<u>easement.</u>	1001
<u>(E) "Video programming" means any programming generally</u>	1002
<u>considered comparable to programming provided by a television</u>	1003
<u>broadcast station.</u>	1004
<u>(F) "Video service" means video programming services</u>	1005
<u>without regard to delivery technology, including internet</u>	1006
<u>protocol technology and video programming provided as a part of</u>	1007
<u>a service that enables users to access content, information,</u>	1008
<u>electronic mail, or other services offered over the public</u>	1009
<u>internet.</u>	1010
<u><b>Sec. 188.02.</b> An easement granted to an electric</u>	1011
<u>cooperative for purposes of transmitting, delivering, or</u>	1012
<u>otherwise providing electric power may be used, apportioned, or</u>	1013
<u>subleased to provide broadband service and such use,</u>	1014
<u>apportionment, or sublease shall not be considered an additional</u>	1015
<u>burden on the servient estate.</u>	1016
<u><b>Sec. 188.05.</b> (A) If the owner of the servient estate of an</u>	1017
<u>easement described in section 188.02 of the Revised Code brings</u>	1018
<u>an action regarding the use, apportionment, or sublease of the</u>	1019
<u>easement for broadband service, the court may award damages to</u>	1020
<u>the owner equal to not more than the difference between the</u>	1021

<u>following:</u>	1022
<u>(1) The fair market value of the owner's interest in the</u>	1023
<u>property of the estate immediately before the provision of</u>	1024
<u>broadband service;</u>	1025
<u>(2) The fair market value of the owner's interest in the</u>	1026
<u>property of the estate immediately after the provision of</u>	1027
<u>broadband service.</u>	1028
<u>(B) Any damages awarded under division (A) of this section</u>	1029
<u>shall be a fixed amount that shall not continue, accumulate, or</u>	1030
<u>accrue.</u>	1031
<u>(C) The values described in division (A) of this section</u>	1032
<u>shall be established by the testimony of a qualified real estate</u>	1033
<u>appraiser.</u>	1034
<u><b>Sec. 188.08.</b> The court may not grant injunctive relief or</u>	1035
<u>any other equitable relief for an action described in section</u>	1036
<u>188.05 of the Revised Code.</u>	1037
<u><b>Sec. 188.11.</b> Actions described in section 188.05 of the</u>	1038
<u>Revised Code shall be brought within one year of any alleged</u>	1039
<u>damage described in that section. Any action not brought within</u>	1040
<u>one year will result in forfeiture of that claim.</u>	1041
<u><b>Sec. 188.14.</b> Past, current, or future revenues or profits</u>	1042
<u>derived or to be derived from the use, apportionment, or</u>	1043
<u>sublease of an easement for broadband service are not admissible</u>	1044
<u>for any purpose in an action described in section 188.05 of the</u>	1045
<u>Revised Code.</u>	1046
<u><b>Sec. 188.17.</b> Any court determination regarding an easement</u>	1047
<u>subject to an action described in section 188.05 of the Revised</u>	1048
<u>Code shall be considered a finding that the provision of</u>	1049

broadband service is an allowable use or purpose under the 1050  
easement as if the use or purpose was specifically stated in the 1051  
terms of the easement. 1052

**Sec. 188.20.** A court determination described in section 1053  
188.17 of the Revised Code shall be filed by the defendant in 1054  
the action with the county recorder of the county in which the 1055  
servient estate subject to the determination is located. The 1056  
recorder shall make a notation in the official record that links 1057  
the determination to the servient estate and the easement 1058  
subject to the determination. 1059

**Sec. 188.23.** The owner of a servient estate of an easement 1060  
described in section 188.02 of the Revised Code may not bring an 1061  
action described in section 188.05 of the Revised Code if any of 1062  
the following apply: 1063

(A) The owner, either directly or through the owner's 1064  
membership in the electric cooperative or otherwise, authorized 1065  
the electric cooperative's electric delivery system for the 1066  
provision of broadband services. 1067

(B) The owner, or any of the previous owners of the 1068  
property that makes up the servient estate, has agreed to, or 1069  
granted permission for, the use of the easement to provide 1070  
broadband service. 1071

(C) The facilities providing broadband service are used or 1072  
are capable of being used to assist in the transmission, 1073  
delivery, or use of electric service. 1074

**Sec. 188.27.** Sections 188.01 to 188.23 of the Revised Code 1075  
shall not be construed as expanding the authority of the state, 1076  
its agencies, or political subdivisions beyond the authority 1077  
existing under federal law or the laws of this state. 1078

Sec. 188.30. Sections 163.01 to 163.22 of the Revised Code 1079  
do not apply regarding the application of sections 188.01 to 1080  
188.23 of the Revised Code. 1081

Sec. 303.251. (A) If a program grant is awarded for an 1082  
eligible project under sections 122.40 to 122.4077 of the 1083  
Revised Code, the board of county commissioners of the county in 1084  
which the project is situated, by resolution, may levy a special 1085  
assessment upon residential property within the county for the 1086  
purpose of providing a contribution from the county towards the 1087  
funding gap for the eligible project. Assessments under this 1088  
section shall be levied only upon the residential property that 1089  
is subject to the eligible project. Before adopting the 1090  
resolution, the board shall send written notice to each affected 1091  
property owner stating the estimated assessment for that 1092  
property. If an owner objects to the stated estimated 1093  
assessment, the owner shall file a written objection with the 1094  
board not later than two weeks after the notice is mailed. The 1095  
board shall review the written objections and may revise the 1096  
estimated assessments before adopting the resolution. If the 1097  
property owner objects to the final assessment for the property 1098  
levied in the resolution, the owner may appeal the final 1099  
assessment under Chapter 2506. of the Revised Code. 1100

(B) The assessment shall be at a rate that will produce a 1101  
total assessment that is not more than the county's contribution 1102  
towards the funding gap for the eligible project as described in 1103  
the application under section 122.4020 of the Revised Code. The 1104  
board shall certify the amount to be levied upon each affected 1105  
property to the county auditor, who shall enter the amount on 1106  
the tax duplicate for collection by the county treasurer in 1107  
equal semiannual installments in the same manner and at the same 1108  
times as the collection of taxes on real property. Assessments 1109

shall be paid by owners of the properties upon which assessments 1110  
are levied. 1111

(C) The assessments, when collected, shall be paid by the 1112  
county auditor by warrant on the county treasurer into a special 1113  
fund in the county treasury created for the purpose of funding 1114  
an eligible project for which a program grant is awarded under 1115  
sections 122.40 to 122.4077 of the Revised Code and that is 1116  
located in the county. The board may expend moneys from the fund 1117  
only for the purposes for which the assessments were levied. 1118

**Sec. 505.881.** (A) If a program grant is awarded for an 1119  
eligible project under sections 122.40 to 122.4077 of the 1120  
Revised Code, the board of township trustees in which the 1121  
project is situated, by resolution, may levy a special 1122  
assessment upon residential property within the township for the 1123  
purpose of providing a contribution from the township towards 1124  
the broadband funding gap for the eligible project. Assessments 1125  
under this section shall be levied only upon the residential 1126  
property that is subject to the eligible project. Before 1127  
adopting the resolution, the board shall send written notice to 1128  
each affected property owner stating the estimated assessment 1129  
for that property. If an owner objects to the stated estimated 1130  
assessment, the owner shall file a written objection with the 1131  
board not later than two weeks after the notice is mailed. The 1132  
board shall review the written objection and may revise the 1133  
estimated assessment before adopting the resolution. If the 1134  
property owner objects to the final assessment for the property 1135  
levied in the resolution, the owner may appeal the final 1136  
assessment under Chapter 2506. of the Revised Code. 1137

(B) The assessment shall be at a rate that will produce a 1138  
total assessment that is not more than the township's 1139



contribution towards the funding gap for the eligible project as 1140  
described in the application under section 122.4020 of the 1141  
Revised Code. The board shall certify the amount to be levied 1142  
upon each affected property to the county auditor, who shall 1143  
enter the amount on the tax duplicate for collection by the 1144  
county treasurer in equal semiannual installments in the same 1145  
manner and at the same times as the collection of taxes on real 1146  
property. Assessments shall be paid by owners of the properties 1147  
upon which assessments are levied. 1148

(C) The assessments, when collected, shall be paid by the 1149  
county auditor by warrant on the county treasurer into a special 1150  
fund in the township treasury created for the purpose of funding 1151  
an eligible project for which a program grant is awarded under 1152  
sections 122.40 to 122.4077 of the Revised Code and that is 1153  
located in the township. The board may expend moneys from the 1154  
fund only for the purposes for which the assessments were 1155  
levied. 1156

**Sec. 727.01.** Each municipal corporation shall have special 1157  
power to levy and collect special assessments. The legislative 1158  
authority of a municipal corporation may assess upon the 1159  
abutting, adjacent, and contiguous, or other specially 1160  
benefited, lots or lands in the municipal corporation, any part 1161  
of the cost connected with the improvement of any street, alley, 1162  
dock, wharf, pier, public road, place, boulevard, parkway, or 1163  
park entrance or an easement of the municipal corporation 1164  
available for the purpose of the improvement to be made in it by 1165  
grading, draining, curbing, paving, repaving, repairing, 1166  
treating the surface with substances designed to lay the dust on 1167  
it or preserve it, constructing sidewalks, piers, wharves, 1168  
docks, retaining walls, sewers, sewage disposal works and 1169  
treatment plants, sewage pumping stations, water treatment 1170

plants, water pumping stations, reservoirs, and water storage 1171  
tanks or standpipes, together with the facilities and 1172  
appurtenances necessary and proper therefor, drains, storm-water 1173  
retention basins, watercourses, water mains, or laying of water 1174  
pipe, or the lighting, sprinkling, sweeping, or cleaning 1175  
thereof, or removing snow therefrom, any part of the cost and 1176  
expense of planting, maintaining, and removing shade trees 1177  
thereupon; any part of the cost of a voluntary action, as 1178  
defined in section 3746.01 of the Revised Code, undertaken 1179  
pursuant to Chapter 3746. of the Revised Code by a special 1180  
improvement district created under Chapter 1710. of the Revised 1181  
Code, including the cost of acquiring property with respect to 1182  
which the voluntary action is undertaken; any part of the cost 1183  
and expense of constructing, maintaining, repairing, cleaning, 1184  
and enclosing ditches; any part of the cost and expense of 1185  
operating, maintaining, and replacing heating and cooling 1186  
facilities for enclosed pedestrian canopies and malls; any part 1187  
of the cost and expense of acquiring and improving parking 1188  
facilities and structures for off-street parking of motor 1189  
vehicles or of acquiring land and improving it by clearing, 1190  
grading, draining, paving, lighting, erecting, constructing, and 1191  
equipping it for parking facilities and structures for off- 1192  
street parking of motor vehicles, to the extent authorized by 1193  
section 717.05 of the Revised Code, but only if no special 1194  
assessment made for the purpose of developing off-street parking 1195  
facilities and structures is levied against any land being used 1196  
solely for off-street parking or against any land used solely 1197  
for single or two-family dwellings; any part of the cost and 1198  
expense of operating and maintaining the off-street parking 1199  
facilities and structures; and any part of the cost connected 1200  
with changing the channel of, or narrowing, widening, dredging, 1201  
deepening, or improving, any stream or watercourse, and for 1202

constructing or improving any levees or boulevards on any stream 1203  
or watercourse, or along or about any stream or watercourse, 1204  
together with any retaining wall, riprap protection, bulkhead, 1205  
culverts, approaches, flood gates, waterways, or drains 1206  
incidental to any stream or watercourse, or for making any other 1207  
improvement of any river or lake front, whether it is privately 1208  
or publicly owned, which the legislative authority declares 1209  
conducive to the public health, convenience, or welfare. If a 1210  
program grant is awarded for an eligible project under sections 1211  
122.40 to 122.4077 of the Revised Code, a municipal corporation 1212  
may levy, against dwellings that are subject to the project, a 1213  
special assessment for the purpose of providing a contribution 1214  
from the municipal corporation towards the funding gap for the 1215  
project. The assessment shall be at a rate that will produce a 1216  
total assessment that is not more than the municipal 1217  
corporation's contribution towards the funding gap for the 1218  
eligible project as described in the application under section 1219  
122.4020 of the Revised Code. In addition, a municipal 1220  
corporation may levy a special assessment for public improvement 1221  
or public services plans of a district formed under Chapter 1222  
1710. of the Revised Code, as provided in that chapter. Except 1223  
as otherwise provided in Chapter 1710. of the Revised Code, 1224  
special assessments may be levied by any of the following 1225  
methods: 1226

(A) By a percentage of the tax value of the property 1227  
assessed; 1228

(B) In proportion to the benefits that may result from the 1229  
improvement; 1230

(C) By the front foot of the property bounding and 1231  
abutting upon the improvement. 1232

<u>Sec. 4926.01. As used in sections 4926.01 to 4926.60 of</u>	1233
<u>the Revised Code:</u>	1234
<u>"Attachment" means any wire, wireless facility, cable,</u>	1235
<u>antennae facility, or apparatus for the transmission of text,</u>	1236
<u>signs, signals, pictures, sounds, or other forms of information</u>	1237
<u>installed by or on behalf of a provider upon any pole owned or</u>	1238
<u>controlled, in whole or in part, by one or more electric</u>	1239
<u>cooperatives.</u>	1240
<u>"Broadband provider" has the same meaning as in section</u>	1241
<u>122.40 of the Revised Code.</u>	1242
<u>"Electric cooperative" has the same meaning as in section</u>	1243
<u>4928.01 of the Revised Code.</u>	1244
<u>"Incremental cost" means pole attachment costs incurred by</u>	1245
<u>an electric cooperative for providing long-run service.</u>	1246
<u>"Make-ready work" means, as determined by the nature of</u>	1247
<u>the work required, "make-ready," "complex make-ready," or</u>	1248
<u>"simple make-ready" as those terms are defined in 47 C.F.R.</u>	1249
<u>1.1402.</u>	1250
<u>"Provider" means a broadband provider, telecommunications</u>	1251
<u>service provider, video service provider, or wireless service</u>	1252
<u>provider.</u>	1253
<u>"Telecommunications service provider" means a provider of</u>	1254
<u>"telecommunications service" as defined in section 4927.01 of</u>	1255
<u>the Revised Code.</u>	1256
<u>"Video service provider" has the same meaning as in</u>	1257
<u>section 1332.21 of the Revised Code.</u>	1258
<u>"Wireless service provider" has the same meaning as in</u>	1259
<u>section 4927.01 of the Revised Code.</u>	1260

Sec. 4926.03. On the request of a provider, an electric cooperative shall grant the provider nondiscriminatory access to the cooperative's poles under just and reasonable rates, terms, and conditions for their attachments in accordance with sections 4926.06 to 4926.36 of the Revised Code. 1261  
1262  
1263  
1264  
1265

Sec. 4926.06. A provider requesting access to an electric cooperative's poles shall submit the request in writing, and the cooperative shall review the request under a uniformly applied, efficient, and transparent process. 1266  
1267  
1268  
1269

Sec. 4926.09. An electric cooperative may require a provider to execute an agreement for a pole attachment under nondiscriminatory, just, and reasonable rates, terms, and conditions in accordance with sections 4926.06 to 4926.36 of the Revised Code if the cooperative requires all other attaching parties to execute such an agreement. 1270  
1271  
1272  
1273  
1274  
1275

Sec. 4926.12. After receiving a request for access, an electric cooperative shall grant or deny access within the time frame established by the federal communications commission, unless, pursuant to section 4926.57 of the Revised Code, a court of common pleas determines a different time frame for granting or denying access. 1276  
1277  
1278  
1279  
1280  
1281

Sec. 4926.15. An electric cooperative may deny a provider access to its poles for either of the following reasons if the reasons are applied on a nondiscriminatory basis: 1282  
1283  
1284

(A) Insufficient capacity; 1285

(B) Safety, reliability, or generally applicable engineering standards. 1286  
1287

Sec. 4926.18. If an electric cooperative denies an access request submitted under section 4926.15 of the Revised Code, the 1288  
1289

cooperative must confirm the denial in writing. The denial shall 1290  
be specific and shall include all relevant evidence and 1291  
information supporting the denial and an explanation of how that 1292  
evidence and information relates to the factors described in 1293  
section 4926.15 of the Revised Code on which the denial is 1294  
based. 1295

**Sec. 4926.21.** (A) A provider and an electric cooperative 1296  
shall comply with the process for make-ready work under 47 1297  
U.S.C. 224 and the federal communications commission orders and 1298  
regulations implementing that section, unless, pursuant to 1299  
section 4926.57 of the Revised Code, a court of common pleas 1300  
establishes a different process for make-ready work. 1301

(B) The cooperative shall provide a good-faith estimate 1302  
for any make-ready work, which shall include pole replacement if 1303  
necessary. All make-ready costs shall be based on the 1304  
cooperative's actual costs not recovered through the annual 1305  
recurring attachment rate. The cooperative shall provide 1306  
detailed documentation of the actual costs. 1307

(C) A cooperative that charges an annual recurring 1308  
attachment fee shall establish the fee in accordance with the 1309  
cable pole attachment rate formula established in 47 U.S.C. 1310  
224(d) and commission orders and regulations implementing that 1311  
formula, unless, pursuant to section 4926.57 of the Revised 1312  
Code, a court of common pleas establishes a different attachment 1313  
fee. 1314

**Sec. 4926.24.** The attachment of facilities on the poles of 1315  
an electric cooperative by a provider shall comply with the 1316  
following: 1317

(A) The most recent, applicable, nondiscriminatory safety 1318

and reliability standards adopted by the cooperative; 1319

(B) The national electric safety code adopted by the 1320  
institute of electrical and electronics engineers in effect on 1321  
the date of the attachment. 1322

Sec. 4926.27. Nothing in sections 4926.01 to 4926.60 of 1323  
the Revised Code affects a provider or other attaching party's 1324  
obligation to obtain any necessary authorization before 1325  
occupying public ways or private rights-of-way with its 1326  
attachment. 1327

Sec. 4926.30. If an electric cooperative's pole facility 1328  
is modified, a party with a preexisting attachment to the 1329  
modified facility is considered to directly benefit from a 1330  
modification if, after receiving notification of the 1331  
modification, the party adds to or modifies its attachment. 1332

Sec. 4926.33. (A) If an electric cooperative's pole 1333  
facility is modified, all parties that obtain access to the 1334  
facility as a result of the modification and all parties that 1335  
directly benefit from the modification shall share 1336  
proportionately in the cost of the modification. 1337

(B) If a party makes an attachment to the facility after 1338  
the completion of the modification, the party shall share 1339  
proportionately in the costs of the modification if that 1340  
modification rendered the added attachment possible. 1341

Sec. 4926.36. Unless a modification by an electric 1342  
cooperative is necessary for an electric service that uses smart 1343  
grid or other technology, a party with a preexisting attachment 1344  
to a pole is not required to bear any of the costs of 1345  
rearranging or replacing its attachment if the rearrangement or 1346  
replacement is necessary because of another party's request for 1347

an additional attachment or a modification of an existing 1348  
attachment. 1349

**Sec. 4926.39.** Subject to the venue requirements of 1350  
section 4926.43 of the Revised Code, an electric cooperative or 1351  
a provider may file a complaint regarding pole attachment 1352  
disputes with respect to sections 4926.01 to 4926.60 of the 1353  
Revised Code with the court of commons pleas of the county in 1354  
which the cooperative's Ohio headquarters is located. 1355

**Sec. 4926.42.** Subject to the venue requirements of section 1356  
4926.43 of the Revised Code, the court of common pleas of the 1357  
county in which an electric cooperative's Ohio headquarters is 1358  
located has jurisdiction to hear complaints and to grant 1359  
remedies with respect to sections 4926.01 to 4926.60 of the 1360  
Revised Code regarding attachment disputes for which a complaint 1361  
is filed. 1362

**Sec. 4926.43.** A hearing regarding a complaint filed under 1363  
section 4926.39 of the Revised Code is a special statutory 1364  
proceeding under division (C) of Civil Rule 1 of the Rules of 1365  
Civil Procedure. Any civil proceeding under section 4926.39 of 1366  
the Revised Code shall be conducted in accordance with the Rules 1367  
of Civil Procedure, except that a complaint regarding pole 1368  
attachment disputes with respect to sections 4926.01 to 4926.60 1369  
of the Revised Code is not subject to general venue provisions 1370  
in Civil Rule 3 of the Rules of Civil Procedure. To that extent 1371  
only, such proceedings shall be deemed a special statutory 1372  
proceeding under division (C) (8) of Civil Rule 1 of the Rules of 1373  
Civil Procedure. 1374

Venue for such a proceeding shall lie only in the county 1375  
in which the cooperative's Ohio headquarters is located, 1376  
provided that at least some portion of the attachment will occur 1377



in that county. In the event that the cooperative's Ohio 1378  
headquarters is not located in a county in which some portion of 1379  
the attachment will occur, or that more than one cooperative is 1380  
a party, venue shall lie only in the county in which the largest 1381  
physical portion of the attachment will occur. 1382

Court orders relative to venue are final orders pursuant 1383  
to division (B) (2) of section 2505.02 of the Revised Code. 1384  
Orders not specifically relating to venue are reviewable on 1385  
appeal in the same manner as judgments in any civil action. 1386

Land acquisition actions pursuant to Chapter 163. of the 1387  
Revised Code are not affected by this section and shall be heard 1388  
in a venue as provided in that chapter or Civil Rule 3 of the 1389  
Rules of Civil Procedure. 1390

**Sec. 4926.45.** Before a court of common pleas may order any 1391  
remedy under section 4926.57 of the Revised Code regarding a 1392  
pole attachment complaint filed with respect to sections 4926.01 1393  
to 4926.60 of the Revised Code, the court shall determine, and a 1394  
complainant shall establish, by a preponderance of the evidence, 1395  
each of the following: 1396

(A) That any rate, term, or condition complained of is not 1397  
just and reasonable or a denial of access was unlawful. 1398

(B) If the complaint concerns any rate, term, or 1399  
condition, that such rate, term, or condition is contained in, 1400  
or demanded by either party as a condition to entering into, 1401  
either: 1402

(1) A new pole attachment agreement; or 1403

(2) An amendment, renewal, or replacement of an existing 1404  
agreement that may be terminated, amended, renewed, or replaced 1405  
on or after the effective date of this section; 1406

(C) If the complaint concerns any rate, term, or condition, that the provider and the electric cooperative first attempted to negotiate regarding the terms of a new, amended, renewed, or replaced agreement for a period of at least forty-five days prior to filing the complaint. 1407  
1408  
1409  
1410  
1411

**Sec. 4926.48.** (A) The complainant under section 4926.39 of the Revised Code has the burden of establishing a prima facie case that the rate, term, or condition complained of is not just and reasonable or that the denial of access was unlawful. 1412  
1413  
1414  
1415

(B) In a case involving a denial of access, the electric cooperative has the burden of establishing, by a preponderance of the evidence, that the denial was lawful, once a prima facie case is established by the complainant. 1416  
1417  
1418  
1419

**Sec. 4926.51.** In a complaint filed under section 4926.39 of the Revised Code, if an electric cooperative claims that the proposed rate is lower than its incremental costs, the cooperative has the burden of establishing, by a preponderance of the evidence, its incremental costs. 1420  
1421  
1422  
1423  
1424

**Sec. 4926.54.** In a complaint filed under section 4926.39 of the Revised Code, there is a rebuttable presumption that each of the following is just and reasonable: 1425  
1426  
1427

(A) The time frame to grant or deny access, if it is within the time frame established by the federal communications commission; 1428  
1429  
1430

(B) The process for make-ready work, if it is in accordance with the process for make-ready work under 47 U.S.C. 224 and the federal communications commission orders and regulations implementing that section; 1431  
1432  
1433  
1434

(C) The charged rate, if the electric cooperative can show 1435

that its charged rate does not exceed an annual recurring 1436  
attachment rate calculated in accordance with the cable pole 1437  
attachment rate formula in 47 U.S.C. 224(d) and federal 1438  
communications commission orders and regulations implementing 1439  
that formula. 1440

**Sec. 4926.57.** (A) If, pursuant to a complaint filed under 1441  
section 4926.39 of the Revised Code, a court of common pleas 1442  
determines that any rate, term, or condition described in the 1443  
complaint is not just and reasonable, it may do, but is not 1444  
limited to doing, any of the following: 1445

(1) Terminate the rate, term, or condition and prescribe a 1446  
just and reasonable rate, term, or condition; 1447

(2) Require entry into a pole attachment agreement on just 1448  
and reasonable rates, terms, and conditions; 1449

(3) Require access to poles as provided under sections 1450  
4926.06 to 4926.36 of the Revised Code; 1451

(4) Substitute in the pole attachment agreement the just 1452  
and reasonable rate, term, or condition established by the 1453  
court; 1454

(5) Order a refund or payment, as appropriate. 1455

(B) A refund or payment ordered under this section may not 1456  
exceed the difference between the actual amount paid under the 1457  
unjust and unreasonable rate, term, or condition and the amount 1458  
that would have been paid under the rate, term, or condition 1459  
established by the court for the period described in the 1460  
complaint, provided that the period during which refunds or 1461  
payments are made does not exceed two years. 1462

**Sec. 4926.60.** A court of common pleas determination 1463

resolving a complaint under sections 4926.39 to 4926.57 of the 1464  
Revised Code shall be issued in the form of a final appealable 1465  
order. 1466

**Section 2.** That existing sections 133.13 and 727.01 of the 1467  
 Revised Code are hereby repealed. 1468

**Section 3.** All items in this act are hereby appropriated 1469  
 as designated out of any moneys in the state treasury to the 1470  
 credit of the designated fund. For all operating appropriations 1471  
 made in this act, those in the first column are for fiscal year 1472  
 2022 and those in the second column are for fiscal year 2023. 1473  
 The operating appropriations made in this act are in addition to 1474  
 any other operating appropriations made for the FY 2022-FY 2023 1475  
 biennium. 1476

**Section 4.** 1477

1478

1	2	3	4	5
A		DEV DEVELOPMENT SERVICES AGENCY		
B	Facilities Establishment Fund Group			
C	5GTO 195550	Broadband Development Grants	\$20,000,000	\$0
D	TOTAL FCE Facilities Establishment Fund Group		\$20,000,000	\$0
E	TOTAL ALL BUDGET FUND GROUPS		\$20,000,000	\$0
	BROADBAND DEVELOPMENT GRANTS			1479

Notwithstanding Chapter 166. of the Revised Code, the 1480  
foregoing appropriation item 195550, Broadband Development 1481  
Grants, shall be used for grants under the Ohio Residential 1482  
Broadband Expansion Grant Program established in section 122.401 1483  
of the Revised Code. 1484

On the effective date of this section, or as soon as 1485  
possible thereafter, the Director of Budget and Management shall 1486  
transfer \$20,000,000 cash from the Facilities Establishment Fund 1487  
(Fund 7037) to the Ohio Residential Broadband Expansion Grant 1488  
Program Fund (Fund 5GTO). 1489

Any unexpended and unencumbered portion of the foregoing 1490  
appropriation item 195550, Broadband Development Grants, at the 1491  
end of fiscal year 2022 is hereby reappropriated for the same 1492  
purpose in fiscal year 2023. 1493

**Section 5.** Within the limits set forth in this act, the 1494  
Director of Budget and Management shall establish accounts 1495  
indicating the source and amount of funds for each appropriation 1496  
made in this act, and shall determine the form and manner in 1497  
which appropriation accounts shall be maintained. Expenditures 1498  
from operating appropriations contained in this act shall be 1499  
accounted for as though made in the main operating 1500  
appropriations act of the 134th General Assembly. The operating 1501  
appropriations made in this act are subject to all provisions of 1502  
the main operating appropriations act of the 134th General 1503  
Assembly that are generally applicable to such appropriations. 1504