



HOUSE BILL 1211

By Sexton

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3; Title 7; Title 65 and Title 67, relative to broadband services.

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

SECTION 1. Tennessee Code Annotated, Section 4-3-708(d), is amended by deleting the first sentence and substituting instead:

The department shall administer the program pursuant to this section and policies developed by the department that are not in conflict with this section.

Notwithstanding any law to the contrary, this chapter, and any policies developed by the department to administer the program pursuant to this chapter, apply to the program and any other broadband program in which state or federal funds are used to promote the deployment or expansion of broadband services in this state.

SECTION 2. Tennessee Code Annotated, Section 4-3-708(e), is amended by deleting the language "download speeds of ten megabits per second (10 Mbps) and minimum upload speeds of one megabit per second (1 Mbps)" and substituting instead the language "download speeds of one hundred megabits per second (100 Mbps) and minimum upload speeds of twenty megabits per second (20 Mbps)".

SECTION 3. Tennessee Code Annotated, Section 4-3-708(e)(1), is amended by deleting the subdivision and substituting instead:

(1) Serve locations without access to download speeds of at least one hundred megabits per second (100 Mbps) and upload speeds of at least twenty megabits per second (20 Mbps);

SECTION 4. Tennessee Code Annotated, Section 4-3-708(e)(2), is amended by deleting the language "or larger area".

SECTION 5. Tennessee Code Annotated, Section 4-3-708(e)(4), is amended by deleting the subdivision and substituting instead:

(4) Have not received funds or have not been designated to receive funds through other state or federally funded grant programs designed specifically to encourage broadband deployment to a location without the minimum speeds as described in this subsection (e); however, a project is not disqualified pursuant to this subdivision (e)(4) if the funds are to be used to alleviate costs of installing broadband facilities underground because the project has been denied reasonable access to aerial facilities or aerial facilities in the location lack the capacity to accommodate new broadband attachments at a reasonable cost; and

SECTION 6. Tennessee Code Annotated, Section 4-3-708(e), is amended by adding the following as new subdivisions:

() Will provide broadband service to the greatest number of locations at the highest speeds for the lowest grant amount per location;

() Have the ability to commit to providing at least twenty percent (20%) of the cost to deploy the broadband. When grants are requested to provide broadband service to the same location, the department shall establish a preference for approving grant applications with a greater capital contribution;

SECTION 7. Tennessee Code Annotated, Section 4-3-708, is amended by adding the following as new subsections:

(i) The department shall not award a grant under this section if:

(1) The location is being served by at least one (1) provider offering minimum download and upload speeds as described in subdivision (e)(1); or

(2) A federal or state grant has been allocated to a broadband services provider to provide broadband services to the location at the minimum download and upload speeds as described in subdivision (e)(1); however, a project is not disqualified pursuant to this subdivision (i)(2) if the funds are to be used to alleviate costs of installing broadband facilities underground because the project has been denied reasonable access to aerial facilities or aerial facilities in the location lack the capacity to accommodate new broadband attachments at a reasonable cost.

(j) The department shall maintain a list of eligible locations on its website that do not have broadband services at the minimum download and upload speeds described in subsection (e) and would qualify for grants pursuant to this section.

(k) The department must allow broadband services providers a reasonable opportunity to comment on a grant award by providing data denoting the availability of broadband prior to the award of any grant pursuant to this section.

SECTION 8. This act takes effect upon becoming a law, the public welfare requiring it, and applies to grants awarded on or after the effective date of this act.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1338

House Bill No. 1211*

by deleting all language after the enacting clause and substituting instead:

SECTION 1. Tennessee Code Annotated, Section 4-3-708, is amended by deleting the section and substituting instead:

(a) For purposes of this section:

(1) "Broadband service" means broadband internet access service;

(2) "Department" means the department of economic and community development;

(3) "Fund" means the Tennessee broadband accessibility fund; and

(4) "Unserved location" means a location without any broadband service or with broadband service offering only minimum download speeds of one hundred megabits per second (100 Mbps) and minimum upload speeds of twenty megabits per second (20 Mbps).

(b) The commissioner of economic and community development is authorized to establish and administer the broadband accessibility grant program and all other broadband grant programs in which state or federal funds are designated for the purpose of promoting the deployment and adoption of broadband internet access services.

(c) The broadband accessibility grant program is funded through the Tennessee broadband accessibility fund established as a separate account in the general fund.

Subject to the availability of revenue at the end of each fiscal year, the commissioner of finance and administration is authorized to carry forward any amounts remaining in the



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fund or transfer any part of the fund to the revenue fluctuation reserve. Moneys in the fund must be invested by the state treasurer pursuant to title 9, chapter 4, part 6 for the sole benefit of the fund. The fund is subject to appropriations by the general assembly and gifts, grants, and other donations received by the department of economic and community development for broadband grant programs and funds.

(d)

(1) The department shall administer all broadband grant programs pursuant to this section and any policies developed by the department to implement this section that are not in conflict with this section. However, if any requirement of this section conflicts with a provision of federal law, then the requirement may be waived by the department if:

(A) The federal government would deny federal broadband grant funds to the state if the conflicting requirement of this section was enforced, as evidenced by direct communication from the federal government; and

(B) The waiver of any requirement of this section is made known to broadband service providers.

(2) Policies developed by the department pursuant to this subsection (d) must provide for the awarding of grants to political subdivisions or entities of political subdivisions, corporations, limited liability companies, partnerships, or other business entities that provide last mile broadband services; cooperatives organized under the Rural Electric and Community Services Cooperative Act, compiled in title 65, chapter 25, or the Telephone Cooperative Act, compiled in title 65, chapter 29; and any other entity authorized by state law to provide last mile broadband services.

(3) Notwithstanding any law to the contrary, this section, and any policies developed by the department to administer the broadband accessibility grant

program pursuant to this section, apply to the broadband accessibility grant program and any other broadband program in which state or federal funds are used to promote the deployment or expansion of broadband services in this state.

(e) Grants must be awarded to promote the deployment and adoption of broadband services with minimum download speeds of one hundred megabits per second (100 Mbps) and minimum upload speeds of twenty megabits per second (20 Mbps) to unserved locations. Grants may be awarded pursuant to additional criteria developed by the department that are not in conflict with this section, with priority given to projects that:

(1) Propose to acquire and install infrastructure that supports broadband services scalable to download and upload speeds higher than the minimum speeds required pursuant to this subsection (e); however, this priority does not take precedence over serving a greater number of locations that are unserved locations for the lowest grant amount per location if the department also gives due consideration to high cost or difficult to serve areas as part of its review of the number of locations to be served;

(2) Serve locations with demonstrated community support, including, but not limited to, documented support from the political subdivision or the political subdivision receiving designation as a broadband-ready community pursuant to § 4-3-709; and

(3) Have the ability to commit to providing at least twenty percent (20%) of the cost to deploy the broadband, unless the location to be served is a high-cost area, as determined by a federal grant program.

(f)

(1) When grants are requested to provide broadband service to the same location, the department shall establish a preference for approving grant applications with a greater capital contribution notwithstanding subdivision (e)(3).

(2) Notwithstanding subsection (e), the department may award a portion of grant funds to local libraries in this state for the purpose of assisting the libraries in offering digital literacy training pursuant to state library and archives guidelines.

(g) Moneys in the fund may be used by the department for the purpose of administering broadband grant programs. However, the expenses incurred to administer the program must not exceed five percent (5%) of the total amount appropriated for the programs in any fiscal year.

(h) For any year in which grants are distributed under a broadband grant program, the department shall produce a report on the status of grants under those programs, including progress toward increased access to and adoption of broadband services. The report must be provided to the governor, speaker of the house of representatives, and speaker of the senate and published on the department's website.

(i) The department shall not award a grant under this section to any project that:

(1) Proposes to serve a location that is already being served by at least one (1) provider offering minimum download speeds of one hundred megabits per second (100 Mbps) and minimum upload speeds of twenty megabits per second (20 Mbps); or

(2) Would serve a location that has received funds, or is designated to receive funds, through another state or federally funded grant program designed specifically to encourage broadband deployment to the location with the minimum download speeds of one hundred megabits per second (100 Mbps) and minimum upload speeds of twenty megabits per second (20 Mbps).

(j) The department shall maintain a list of eligible locations on its website that would qualify for grants pursuant to this section. The list of eligible locations must be updated at least biannually.

(k) The department shall allow broadband service providers a reasonable opportunity to comment on a grant application by providing data denoting the availability of broadband prior to the award of any grant pursuant to this section.

(l) To protect the public interest and to ensure that all Tennesseans are ultimately served with broadband service, all recipients of funds pursuant to this section shall complete the obligations of the award of funds within the time period outlined within the agreement to award the funds unless there are circumstances that cause a delay in completing an obligation that is not within the recipient's control. If a recipient does not complete an obligation pursuant to this subsection (l), then the recipient is liable for repayment of the entire grant in full, plus twenty percent (20%) of the grant amount.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it, and applies to grants awarded on or after the effective date of this act.