

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1166

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Albritton

SUBJECT: Broadband Internet Service

DATE: February 21, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2. <u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	Recommend: Favorable
3. <u>McAuliffe</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1166 transfers the locus of broadband policy implementation from the Department of Management Services to the Department of Economic Opportunity. Specifically, the bill:

- Designates the Department of Economic Opportunity to replace the Department of Management Services as the agency responsible for broadband policy in Florida; and
- Creates the Florida Office of Broadband within the Department of Economic Opportunity's Division of Community Development, to which the bill transfers specific duties regarding the development, marketing, and promotion of broadband.

The bill also authorizes the Department of Transportation, beginning in Fiscal Year 2022-2023, to use up to \$5 million annually from the State Transportation Trust Fund allocation to the Multi-use Corridors of Regional Economic Significance program for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor.

The Department of Economic Opportunity can implement the bill within existing resources.

The bill is effective July 1, 2020.

I. Present Situation:

Florida Agency Broadband Initiatives

Fixed and mobile broadband services provide Americans, especially those in rural and remote areas of the country, access to numerous employment, education, entertainment, and health care opportunities.¹ Additionally, communities that lack broadband access can have difficulty attracting new capital investment because broadband access is critical to today's businesses. "Corporate site selectors expect broadband. It is not a perk or special benefit."² Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, but only 75.2 percent of its rural areas have coverage.³ This disparity between urban and rural broadband access exists because of high construction costs to build the broadband infrastructure across the large swaths of rural geographic areas and lower customer base across the low-density areas.⁴ A 2016 study determined that 16 Florida counties are underserved by fixed broadband services.⁵

Department of Management Services

In 2009, the Legislature authorized the Department of Management Services (DMS) to apply for grants and lead broadband planning and deployment throughout Florida, especially in rural, unserved, and underserved areas.⁶ Pursuant to s. 364.0135, F.S., the DMS was directed to collaborate with Enterprise Florida, Inc., other state agencies, local governments, private businesses, and community organizations to:

- Monitor broadband adoption across Florida;
- Create a strategic plan to increase the use of broadband Internet service in Florida;
- Map Florida's broadband transmission speeds and availability;
- Build and facilitate local technology planning teams, especially with community members from the areas of education, healthcare, business, tourism, agriculture, economic development, and local government; and
- Encourage public use of Internet service through broadband grant programs.

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report* at 1, Feb. 2, 2018, <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2018-broadband-deployment-report> (last visited Feb. 1, 2020).

² M. McQuade, *The Importance of Broadband to Economic Development* (Sept. 2011), Site Selection Magazine, <https://siteselection.com/issues/2011/sep/sas-optical-infrastructure.cfm> (last visited Feb. 1, 2020).

³ U.S. Federal Communications Commission, *supra* note 1, at 58-59. For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ American Broadband Initiative, *Milestones Report*, 11 (Feb. 13, 2019), https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Feb. 1, 2020).

⁵ Dr. Ed H. Moore, *Expanding Local Access to the Internet Infrastructure & Customized Distance Learning to Advance Educational Attainment, Economic Development & County Growth*, Independent Colleges & Universities of Florida, https://www.floridahighereducation.org/doc_meetings/20171030/Moore-10_30_17-Access-to-Internet-Distance-Learning-for-Educational-Attainment-Economic-Development-County-Growth.pdf (last visited Feb. 1, 2020).

⁶ Chapter 2009-226, s. 2, Laws of Fla. (creating s. 364.0135, F.S., effective July 1, 2009).

The DMS could also accept federal and private funds to further these goals.⁷ These activities were funded by an \$8,887,028 grant from the U.S. Department of Commerce National Telecommunications Information Administration's (NTIA) State Broadband Initiative.⁸

Department of Economic Opportunity

The Department of Economic Opportunity's (DEO) Rural Infrastructure Fund (RIF) facilitates the planning, preparation, and financing of infrastructure projects, including broadband facilities, in rural communities that will encourage job creation, capital investment, and other economic benefits.⁹ The RIF program attracts local and federal government and private funding, in part, by matching up to 40 percent of a project's cost with state grant funds.¹⁰

Department of Transportation—Multi-use Corridors of Regional Economic Significance

The Florida Department of Transportation's (FDOT) Multi-use Corridors of Regional Economic Significance (M-CORES) program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The purpose of the program is to revitalize rural communities, encourage job creation, and provide regional connectivity, creating benefits that include addressing broadband connectivity in these rural areas.¹¹ Beginning in Fiscal Year 2022-2023, the M-CORES program has designated funding of \$35 million annually.¹² These funds must be used for the program with preference to feeder roads, interchanges, and appurtenances that create or facilitate multiuse corridor access and connectivity.

Senate Bill 1242 (2012)

In the 2012 Regular Session, the Legislature passed a bill that would have transferred the state broadband programs from the DMS to the DEO. Although the enrolled bill was signed into law by the Governor on April 20, 2012, it never took effect and the transfer did not occur.¹³ The bill made the agency transfer contingent on the approval by the U.S. Department of Commerce of the transfer of the federal broadband grant to the DEO; the transfer of funds was never approved.¹⁴

Federal Broadband Initiatives

Federal funding for broadband comes from a variety of sources, for example:¹⁵

⁷ Section 364.0135(3), F.S.

⁸ U.S. Department of Commerce, National Telecommunications and Information Administration, *State Broadband Initiative*, <https://www2.ntia.doc.gov/SBDD> (last visited Feb. 1, 2020).

⁹ Section 288.0655(2)(b), F.S.

¹⁰ See s. 288.0655, F.S. See also, Florida Department of Economic Opportunity, *Rural Infrastructure Fund*, <http://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund> (last visited Feb. 1, 2020); Florida Department of Economic Opportunity, *2019 Incentives Report* at 17-18, http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited Feb. 1, 2020).

¹¹ Section 338.2278(1), F.S. See also Florida Department of Transportation, *M-CORES*, <https://floridamcores.com/> (last visited Feb. 1, 2020).

¹² Section 339.0801(2)(b), F.S.

¹³ Chapter 2012-131, Laws of Fla.

¹⁴ See footnote 1 of s. 364.0135, F.S.

¹⁵ American Broadband Initiative, *supra* note 4, at 25-26.

- The Federal Communication Commission’s (FCC) Universal Service Fund subsidizes telephone service (including broadband Internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;
- The U.S. Department of Housing and Urban Development¹⁶ and Department of Education¹⁷ offer block grants to support broadband infrastructure; and
- The U.S. Department of Agriculture (USDA) offers loans and grants to facilitate broadband deployment in rural areas that do not have sufficient access¹⁸ to broadband through the ReConnect Program.¹⁹

The ReConnect Program is currently the most significant federal grant program that supports broadband infrastructure, with up to \$600 million in Congressional budget authority for each round of grants. Applicants for a grant or loan/grant combination under the ReConnect Program are required to submit a scoring sheet by which the USDA may analyze nine separate evaluation criteria to score the applicant. One of the criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.²⁰ The USDA has been reviewing applications from its first round of funding from 2019 and has awarded nearly \$500 million to projects in 27 states; however, no project in Florida has been approved at this time. The USDA’s second round of funding closes March 16, 2020.²¹

Since 2000, the FCC has collected data regarding the deployment of advanced telecommunications capability to Americans by requiring telecommunications services, especially broadband Internet, providers to report the availability of their services at a census block level.²² The FCC uses this data to annually report on broadband availability, update service policies and monitor whether the goal of nationwide service is achieved, and maintain coverage maps²³ to inform the industry and the public of the availability of broadband Internet in their

¹⁶ U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), <https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf> (last visited Feb. 1, 2020).

¹⁷ U.S. Department of Education, Rural and Low-Income School Program, <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Feb. 1, 2020). See also, Broadband USA, *Funding Guide - Department of Education - Rural and Low-Income School Program*, <https://broadbandusa.ntia.doc.gov/funding-program-details-funding-guide/department-education-rural-low-income-school-program-0> (last visited Feb. 1, 2020).

¹⁸ Sufficient access is defined as 10 megabits per second downstream and 1 megabit per second upstream. Pub. Law No. 115-334, 115th Cong. (Dec. 20, 2018) Agriculture Improvement Act of 2018. See also, Congressional Research Service, *The ReConnect Broadband Pilot Program* (Jul. 3, 2019), <https://www.usda.gov/reconnect/awardees> (last visited Feb. 1, 2020).

¹⁹ U.S. Department of Agriculture, *ReConnect Loan and Grant Program: About*, <https://www.usda.gov/reconnect/program-overview> (last visited Feb. 1, 2020).

²⁰ U.S. Department of Agriculture, *ReConnect Program Evaluation Criteria*, <https://www.usda.gov/reconnect/evaluation-criteria> (last visited Feb. 1, 2020).

²¹ U.S. Department of Agriculture, *ReConnect Program Awardees*, <https://www.usda.gov/reconnect/awardees> (last visited Feb. 1, 2020). See also note 19 *supra*.

²² See 47 U.S.C. s. 1302(b) (Section 706 of the Telecommunications Act of 1996 requires the FCC to determine and report annually on “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”). Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 19-195, 11-10, at 3-4 (filed Aug. 6, 2019), <https://www.fcc.gov/document/fcc-improves-broadband-mapping-0> (last visited Feb. 1, 2020).

²³ See FCC, *Fixed Broadband Deployment*, <https://broadbandmap.fcc.gov/#/> (last visited Feb. 1, 2020).

areas.²⁴ In 2019, the FCC amended its reporting requirements to collect geospatial broadband coverage information to allow the agency to better identify gaps in broadband coverage.²⁵

II. Effect of Proposed Changes:

Section 1 amends s. 339.0801(2)(b), F.S., to authorize the FDOT to use up to \$5 million per year of the annual allocation from the State Transportation Trust Fund for the M-CORES program to develop broadband infrastructure within or adjacent to a multiuse corridor. Priority consideration must be given to broadband infrastructure projects that are located in a rural area of opportunity (RAO)²⁶ that is adjacent to a multiuse corridor. The currently designated RAOs are:²⁷

- The Northwest RAO, comprised of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the part of Walton County north of the Intracoastal Waterway, including the cities of DeFuniak Springs, Freeport, and Paxton;
- The South Central RAO, comprised of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County, and the city of Immokalee in Collier County; and
- The North Central RAO, comprised of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.

Section 2 amends s. 364.0135, F.S., and transfers state broadband policy from the DMS to the DEO. The bill creates the Florida Office of Broadband (office) within the DEO's Division of Community Development. The office must develop, market, and promote broadband Internet services to Florida especially in Florida's rural, unserved, or underserved communities, and is directed to:

- Create a strategic plan to increase the use of broadband Internet service in Florida. The plan must include a process to review and verify public input on broadband internet transmission speeds and availability;
- Map Florida's broadband transmission speeds and availability;
- Build and facilitate local technology planning teams, especially with community members from the areas of education, healthcare, business, tourism, agriculture, economic development, and local government;
- Encourage public use of Internet service through broadband grant programs; and
- Monitor, participate in, and provide input on FCC proceedings that are related to the geographic availability and deployment of broadband Internet in Florida.

²⁴ Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 19-195, 11-10, at 3-4 (filed Aug. 6, 2019), <https://www.fcc.gov/document/fcc-improves-broadband-mapping-0> (last visited Feb. 1, 2020).

²⁵ FCC, *FCC Establishes New Digital Opportunity Data Collection* (Aug 1, 2019), <https://www.fcc.gov/document/fcc-improves-broadband-mapping> (last visited Feb. 1, 2020).

²⁶ Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community or region composed of rural communities that have been adversely affected by extraordinary economic events or natural disasters. RAO's are eligible for assistance and other support through the Rural Economic Development Initiative, administered by the DEO.

²⁷ Florida Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Feb. 1, 2020).

The bill defines “underserved” as a geographic area of Florida in which there is no broadband Internet service with a capacity for transmission at a consistent speed of at least 10 megabits per second downstream and at least 1 megabit per second upstream. This definition is the same as the federal definition for “sufficient access” as used for the USDA ReConnect Program.

This section also transfers the authority to apply for and accept federal funds, to enter into contracts, and to establish committees or workgroups for the purposes of broadband expansion and implementation to the DEO. Unlike the current authority of the DMS, this bill does not permit the DEO to accept private funds to coordinate and implement broadband in Florida.

Section 3 repeals ch. 2012-131, Laws of Florida, which attempted to transfer state oversight of broadband Internet policy from the DMS to the DEM and never took effect as a result of the terms of the conditional effective date that were never met.

Section 4 provides this bill is effective July 1, 2020.

III. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

IV. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The use of funds through the M-CORES program to build broadband infrastructure in rural areas may drive a greater level of broadband development to those areas. This may result in a positive impact to both individuals and businesses in impacted areas.

The American Broadband Initiative cites coordination between state and federal broadband programs as a challenge to further broadband development and states that “[f]ederal program officers would benefit from local insights provided by State leaders.”²⁸ The re-institution of a Florida Broadband Office may facilitate better coordination and create additional opportunities for eligible applicants to receive federal funding for broadband development.

C. Government Sector Impact:

The DEO stated that it will reassign existing staff and resources to implement to provisions of the bill.²⁹

The DMS indicated that the bill will have no impact on the department.³⁰

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 339.0801 and 364.0135

This bill repeals chapter 2012-131, Laws of Florida.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on February 20, 2020:

The committee substitute requires the DEO’s strategic plan to increase broadband service in Florida to include a process to review and verify public input on broadband internet transmission speeds and availability.

²⁸ American Broadband Initiative, *supra* note 4 at 27-28.

²⁹ See the DEO’s 2020 Agency Legislative Bill Analysis for SB 1166 (Dec. 12, 2019) (on file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

³⁰ See the DMS’s 2020 Agency Legislative Bill Analysis for SB 1166 (Jan. 21, 2020) (on file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

CS by Commerce and Tourism on January 27, 2020:

- Defines the term “underserved” to mean a geographic area in which there is no broadband Internet service at a consistent speed of at least 10 megabits per second downstream and at least 1 megabits per second upstream; and
- Extends the office’s duties to include monitoring, participating in, and providing input on FCC proceedings regarding geographic availability and deployment of broadband Internet service.

B. Amendments:

None.