

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Tomkow offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. This act may be cited as the "Florida Broadband
7 Deployment Act of 2021."

8 Section 2. Part XV of chapter 288, Florida Statutes,
9 consisting of sections 288.9961, 288.9962, and 288.9963 is
10 created and entitled "Florida Office of Broadband."

11 Section 3. Section 364.0135, Florida Statutes, is
12 transferred, renumbered as section 288.9961, Florida Statutes,
13 and amended to read:

14 288.9961 ~~364.0135~~ Promotion of broadband adoption; Florida
15 Office of Broadband.—

16 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the

Amendment No. 1

17 sustainable adoption of broadband Internet service is critical
18 to the economic and business development of this ~~the~~ state and
19 is beneficial for libraries, schools, colleges and universities,
20 health care providers, and community organizations.

21 (2) DEFINITIONS.—As used in this part, unless otherwise
22 specified section, the term:

23 (a) "Broadband Internet service" means any service that
24 provides access to the Internet with a capacity for transmission
25 at a consistent speed of at least 25 megabits per second
26 download and 3 megabits per second upload.

27 (b)-(a) "Department" means the Department of Economic
28 Opportunity.

29 (c) "Deployed" means that a provider meets either of the
30 following:

31 1. Currently provides broadband Internet service in a
32 specific geographic area; or

33 2. Is able to provide broadband Internet service in a
34 specific geographic area to a customer that requests that
35 service not later than 30 days after the customer requests
36 installation of that service and without an extraordinary
37 commitment of resources or construction charges or fees
38 exceeding an ordinary service activation fee. The 30-day time
39 period shall be extended to 60 days if permits are needed before
40 the broadband Internet service is installed and activated.

41 (d)-(b) "Office" means the Florida Office of Broadband.

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

42 ~~(e)~~ (e) "Sustainable adoption" means the ability for
43 communications service providers to offer broadband Internet
44 services in all areas of this ~~the~~ state by encouraging adoption
45 and utilization levels that allow for these services to be
46 offered in the free market absent the need for governmental
47 subsidy.

48 ~~(d)~~ "Underserved" means a geographic area of the state in
49 which there is no provider of broadband Internet service that
50 offers a connection to the Internet with a capacity for
51 transmission at a consistent speed of at least 10 megabits per
52 second downstream and at least 1 megabit per second upstream.

53 (f) "Unserved" means a geographic area of the state in
54 which broadband Internet service is not deployed.

55 (3) STATE AGENCY.—The department is designated as the lead
56 state agency to facilitate the expansion of broadband Internet
57 service in this ~~the~~ state. The department shall work
58 collaboratively with private businesses and receive staffing
59 support and other resources from Enterprise Florida, Inc., state
60 agencies, local governments, and community organizations.

61 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
62 Broadband is created within the Division of Community
63 Development in the department for the purpose of developing,
64 marketing, and promoting broadband Internet services in this ~~the~~
65 state. The office, in the performance of its duties, shall do
66 all of the following:

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

67 (a) Create a strategic plan that has goals and strategies
68 for increasing the use of broadband Internet service in this ~~the~~
69 state. The plan must include a process to review and verify
70 public input regarding transmission speeds and availability of
71 broadband Internet service throughout the state.

72 (b) Build and facilitate local technology planning teams
73 or partnerships with members representing cross-sections of the
74 community, which may include, but are not limited to,
75 representatives from the following organizations and industries:
76 libraries, K-12 education, colleges and universities, local
77 health care providers, private businesses, community
78 organizations, economic development organizations, local
79 governments, tourism, parks and recreation, and agriculture.
80 These local technology planning teams shall work with rural
81 communities to help the communities determine their current
82 broadband Internet service availability, locate unserved and
83 underserved customers, identify assets relevant to broadband
84 deployment, build partnerships with broadband Internet service
85 providers, and identify opportunities to leverage assets and
86 reduce barriers to the deployment of public and private
87 broadband Internet service in the community. The teams or
88 partnerships must be proactive in fiscally constrained counties
89 in identifying and providing assistance with applying for
90 federal grants for broadband Internet service.

91 (c) Encourage the use of broadband Internet service,

Amendment No. 1

92 especially in the rural or, ~~unserved, or underserved~~ communities
93 of the state through grant programs having effective strategies
94 to facilitate the statewide deployment of broadband Internet
95 service. For any grants to be awarded, priority must be given to
96 projects that:

97 1. Provide access to broadband education, awareness,
98 training, access, equipment, and support to libraries, schools,
99 colleges and universities, health care providers, and community
100 support organizations.

101 2. Encourage the sustainable adoption of broadband
102 Internet service in primarily unserved ~~underserved~~ areas by
103 removing barriers to entry.

104 3. Work toward encouraging investments in establishing
105 affordable and sustainable broadband Internet service in
106 unserved ~~underserved~~ areas of this ~~the~~ state.

107 4. Facilitate the development of applications, programs,
108 and services, including, but not limited to, telework,
109 telemedicine, and e-learning to increase the usage of, and
110 demand for, broadband Internet service in this ~~the~~ state.

111 (d) Monitor, participate in, and provide input in
112 proceedings of the Federal Communications Commission and other
113 federal agencies related to the geographic availability and
114 deployment of broadband Internet service in the state as
115 necessary to ensure that this information is accurately
116 presented and that rural or, ~~unserved, and underserved~~ areas of

Amendment No. 1

117 the state are best positioned to benefit from federal and state
118 broadband deployment programs.

119 (e) Administer the Broadband Opportunity Program
120 established in s. 288.9962.

121 (5) ADMINISTRATION.—The department may:

122 (a) Apply for and accept federal funds for purposes of
123 this section.

124 (b) Enter into contracts necessary or useful to carry out
125 the purposes of this section.

126 (c) Establish any committee or workgroup to administer and
127 carry out the purposes of this section.

128 (d) Adopt rules to implement this part.

129 Section 4. Section 288.9962, Florida Statutes, is created
130 to read:

131 288.9962 Broadband Opportunity Program.—

132 (1) The Broadband Opportunity Program is established
133 within the office to award grants to applicants who seek to
134 expand broadband Internet service to unserved areas of this
135 state. The office must administer and act as fiscal agent for
136 the program and is responsible for receiving and reviewing
137 applications and awarding grants.

138 (2) Subject to appropriation, grants shall be awarded
139 under this section to fund the installation or deployment of
140 infrastructure that supports the provision of broadband Internet
141 service. State funds may not be used to install or deploy

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

142 broadband Internet service to a geographic area in which
143 broadband Internet service is already deployed by at least one
144 provider.

145 (3) Applicants eligible for grant awards include:

146 (a) Corporations, nonprofit corporations, limited
147 liability companies, general partnerships, and limited
148 partnerships that are organized under the laws of this state or
149 otherwise authorized to transact business in this state.

150 (b) Political subdivisions.

151 (c) Indian tribes.

152 (4) The office may not award, directly or indirectly,
153 grants under this section to a governmental entity or an
154 educational institution or affiliate to provide broadband
155 Internet service to any residential or commercial premises,
156 unless other broadband Internet service providers have not
157 deployed service to an unserved area.

158 (5) An eligible applicant shall submit a grant application
159 to the office on a form prescribed by the office. A grant
160 application must include the following information:

161 (a) A description of the project area.

162 (b) A description of the kind and amount of broadband
163 Internet service infrastructure that is proposed.

164 (c) Evidence demonstrating the unserved nature of the
165 project area.

166 (d) The number of households and businesses that would

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

167 have access to broadband Internet service as a result of the
168 grant.

169 (e) A list of significant community institutions that
170 would benefit from the grant.

171 (f) The total cost of the project and the timeframe in
172 which it would be completed.

173 (g) A list identifying sources of funding or in-kind
174 contributions that would supplement any awarded grant.

175 (h) Any other information required by the office.

176 (6) (a) At least 30 days before the first day grant
177 applications may be submitted each fiscal year, the office shall
178 publish on its website the specific criteria and quantitative
179 scoring system it will use to evaluate or rank grant
180 applications. Such criteria and quantitative scoring system must
181 include the criteria set forth in subsection (8).

182 (b) Within 3 business days after the close of the grant
183 application process, the office shall publish on its website,
184 from each grant application submitted, the proposed unserved
185 areas to be served and the proposed broadband Internet speeds of
186 the areas to be served.

187 (c) A broadband Internet service provider that provides
188 existing service in or adjacent to a proposed project area may
189 submit to the office, within 45 days after publication of the
190 information under paragraph (b), a written challenge to an
191 application. The challenge shall contain information

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

192 demonstrating that:

193 1. The provider currently has deployed broadband Internet
194 service to retail customers within the project area;

195 2. The provider has begun construction to provide
196 broadband Internet service to retail customers within the
197 proposed project area within the timeframe proposed by the
198 applicant; or

199 3. The provider commits to providing broadband Internet
200 service to retail customers within the proposed project area
201 within the timeframe proposed by the applicant.

202 (d) Within 3 business days after the submission of a
203 written challenge, the office shall notify the applicant, in
204 writing, of the challenge.

205 (e) The office shall evaluate each challenge submitted
206 under this subsection. If the office determines that the
207 provider currently has deployed, has begun construction to
208 provide, or commits to provide broadband Internet service in the
209 proposed project area, the office may not fund the challenged
210 project.

211 (f) If the office denies funding to an applicant as a
212 result of a broadband Internet service provider's challenge and
213 the provider does not fulfill its commitment to provide
214 broadband Internet service in the unserved area, the office may
215 not consider another challenge from the provider for the next
216 two grant application cycles, unless the office determines that

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

217 the failure to fulfill the commitment was due to circumstances
218 beyond the provider's control.

219 (7) (a) In evaluating grant applications and awarding
220 grants, the office must give priority to applications that:

221 1. Offer broadband Internet service to important community
222 institutions, including, but not limited to, libraries,
223 educational institutions, public safety facilities, and health
224 care facilities;

225 2. Facilitate the use of telemedicine and electronic
226 health records;

227 3. Serve economically distressed areas of the state, as
228 measured by indices of unemployment, poverty, or population loss
229 that are significantly greater than the statewide average;

230 4. Provide for scalability to transmission speeds of at
231 least 100 megabits per second download and 10 megabits per
232 second upload;

233 5. Include a component to actively promote the adoption of
234 the newly available broadband Internet service in the community;

235 6. Provide evidence of strong support for the project from
236 citizens, government, businesses, and institutions in the
237 community;

238 7. Provide access to broadband Internet service to the
239 greatest number of unserved households and businesses;

240 8. Leverage greater amounts of funding for a project from
241 private sources; or

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

242 9. Demonstrate consistency with the strategic plan adopted
243 under s. 288.9961.

244 (b) The office must endeavor to award grants to qualified
245 applications serving all regions of the state.

246 (8) (a) The office may not award any grant to an otherwise
247 eligible grant applicant to provide broadband Internet service
248 in a project area for which any other federal funding has been
249 awarded.

250 (b) A grant awarded under this section may not be used to
251 serve any retail end user that already has access to broadband
252 Internet service.

253 (c) A grant awarded under this section, when combined with
254 any state or local funds, may not fund more than 50 percent of
255 the total cost of a project.

256 (d) A single project may not be awarded a grant in excess
257 of \$5 million.

258 (9) For each grant awarded, the office shall enter into an
259 agreement with the applicant. The agreement must specify the
260 total amount of the grant, performance conditions that must be
261 met to obtain the grant, the schedule of payment, and sanctions
262 that would apply for failure to meet performance conditions,
263 including, but not limited to, requiring the return of grant
264 funds.

265 (10) By January 1, 2023, and each year thereafter, the
266 office shall publish on its website and provide to the Governor,

Amendment No. 1

267 the President of the Senate, and the Speaker of the House of
268 Representatives:

269 (a) A list of all grant applications received during the
270 previous fiscal year and for each application:

271 1. The results of any quantitative weighting or scoring
272 system the office used to award grants or rank the applications.

273 2. The grant amounts requested.

274 3. The grant amounts awarded, if any.

275 4. A report on the progress of each grant recipient in
276 acquiring and installing infrastructure that supports the
277 provision of broadband Internet service in the project areas for
278 which that grant was awarded and in securing adoption of such
279 service in each project area.

280 (b) All written challenges filed during the previous year
281 and the results of those challenges.

282 Section 5. Section 288.9963, Florida Statutes, is created
283 to read:

284 288.9963 Attachment of broadband facilities to municipal
285 electric utility poles.--

286 (1) The Legislature finds that there is a need for
287 increased availability of broadband Internet access throughout
288 the state, particularly in areas where citizens do not have
289 access to acceptable Internet download and upload speeds, or any
290 access at all. The lack of Internet connectivity and widespread
291 broadband availability is detrimental to the growth of the

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

292 economy, access to telehealth, and educational opportunities.
293 The federal government has provided vast resources for private
294 cable and other broadband providers to expand the deployment of
295 broadband Internet infrastructure in areas where Internet access
296 and broadband Internet services are inadequate or non-existent.

297 (2) As used in this section, the term:

298 (a) "Broadband provider" means a person or entity who
299 provides fixed broadband Internet service.

300 (b) "Broadband service" means a service that provides high
301 speed access to the Internet at a rate of at least 25 megabits
302 per second in the downstream direction and at least 3 megabits
303 per second in the upstream direction.

304 (c) "Safety and reliability standards" includes all
305 applicable engineering, reliability, and safety standards
306 governing the installation, maintenance, and operation of
307 facilities and poles and the performance of all work in and
308 around electric utility facilities, including particular utility
309 standards made available to a broadband provider, and shall
310 include the most current versions of the National Electric
311 Safety Code, the National Electric Code, and the regulations of
312 the Occupational Safety and Health Administration, and other
313 reasonable non-discriminatory safety and engineering
314 requirements, including, but not limited to requirements
315 addressing overloading of electric utility facilities.

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

316 (d) "Underserved" means there is no retail access to the
317 Internet at speeds of at least 25 megabits per seconds for
318 downloading and 3 megabits per second for uploading.

319 (e) "Unserved" means that there is no retail access to the
320 Internet at speeds of at least 10 megabits per seconds for
321 downloading and 1 megabits per second for uploading.

322 (f) "Wireline attachment" means a wire or cable and
323 associated equipment affixed to a utility pole in the
324 communications space of the pole.

325 (3) After July 1, 2021, a broadband provider shall
326 receive a promotional rate of \$1 per wireline attachment per
327 pole per year for any new attachment necessary to make broadband
328 service available to an unserved or underserved end user within
329 a municipal electric system service territory for the time
330 period specified herein.

331 (a) A broadband provider who wishes to make wireline
332 attachments subject to the promotional rate shall submit an
333 application, including a route map, to the municipal electric
334 utility specifying which wireline attachments on which utility
335 poles are necessary to extend broadband service to unserved and
336 underserved end users and therefore qualify for the promotional
337 rate set forth herein, together with such information necessary
338 to identify which unserved or underserved end users within the
339 municipal electric utility's service territory will gain access

Amendment No. 1

340 to broadband service as a result. A copy of such application and
341 plan shall also be submitted simultaneously to the Office.

342 (b) A municipal electric utility shall report to the
343 Office which attachments on which utility poles were made
344 available to broadband providers subject to the promotional
345 rate, together with any information available to it regarding
346 which of its municipal electric utility customers do and do not
347 have access to broadband service and whether they are unserved
348 or underserved.

349 (c) A broadband provider who makes application to attach
350 under the promotional rate shall make all reasonable efforts to
351 make broadband service available to the unserved or underserved
352 municipal electric utility customers identified in the
353 application. If a broadband provider fails to make broadband
354 service available to those customers within twelve months, it
355 may be required to pay the prevailing rate for those attachments
356 that failed to make broadband service available to the intended
357 customers.

358 (d) Except to the extent provided in this section,
359 wireline attachments which are subject to the promotional rate
360 shall conform to all other terms and conditions of existing pole
361 attachment agreements between the broadband provider and the
362 municipal electric utility. If no such agreement exists, the
363 parties shall have 90 days to enter into a pole attachment
364 agreement for all other terms and conditions of attachment.

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

365 (e) The promotional rate of \$1 per wireline attachment per
366 pole per year shall apply to all pole attachments made pursuant
367 to this section until July 1, 2024.

368 (4) All wireline attachments must comply with safety and
369 reliability standards; provided, however, wireline attachments
370 and their replacements, which complied with safety and
371 reliability standards when installed, need not be modified to
372 comply with new requirements except as may be necessary for
373 safety reasons, as reasonably determined by the municipal
374 electric utility.

375 (5) If the municipal electric utility is required to
376 replace a utility pole due to a broadband provider's attachment,
377 the municipal electric utility may require, as a condition to
378 pole attachment, that the broadband provider reimburse all
379 reasonable and nondiscriminatory costs attributable solely to
380 the new attachment minus the salvage value of the removed pole,
381 if positive. The municipal electric utility may not require a
382 utility pole to be replaced to accommodate a broadband
383 provider's attachment except where necessary to comply with
384 applicable engineering and safety standards. With respect to
385 such replacement poles, if the replacement is necessary to
386 correct an existing violation, or to bring the pole into
387 compliance with any changes in applicable standards, or because
388 the pole is at the end of its useful life, such replacement cost
389 shall not be charged to the broadband provider. As used in this

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

Amendment No. 1

390 subsection, "useful life" means not less than 30 years for wood
391 utility poles and 50 years for concrete, steel, ductile iron,
392 and all other utility poles.

393 (6) No municipal electric system may increase the fees
394 charged to broadband providers for pole attachments as of the
395 effective date of this act prior to July 31, 2022.

396 Section 6. This act shall take effect July 1, 2021.

397

398

399

T I T L E A M E N D M E N T

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

Remove everything before the enacting clause and insert:
An act relating to broadband Internet deployment; creating pt.
XV of ch. 288, F.S.; relating to the Florida Office of
Broadband; transferring, renumbering, and amending s. 364.0135,
F.S.; revising and providing definitions relating to broadband
Internet service; revising duties of the Florida Office of
Broadband; providing rulemaking authority; creating s. 288.9962,
F.S.; creating the Broadband Opportunity Program within the
Department of Economic Opportunity; providing for administration
of the program; providing requirements for grant awards;
providing eligibility requirements; providing application
requirements; requiring the publication of certain information
related to grant applications and grant awards on a website;
authorizing grant applications to be challenged under certain
circumstances; specifying contents of a challenge; providing

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1239 (2021)

Amendment No. 1

415 | procedures to be used by the office in evaluating challenges;
416 | providing direction for prioritizing grant funding; specifying
417 | conditions for the award of grants; requiring that office to
418 | enter into an agreement containing specified information with
419 | each grant recipient; requiring the office to publish specified
420 | information annually on its website; requiring specified
421 | information to be delivered to the Governor and Legislature;
422 | creating s. 288.9963, F.S.; providing legislative findings;
423 | providing definitions; establishing a promotional rate and
424 | related terms for certain attachments of broadband facilities to
425 | municipal electric utility poles; establishing cost
426 | responsibility for replacement utility poles in certain
427 | circumstances; providing an effective date.

341749 - h1239-strike.docx

Published On: 4/18/2021 9:07:39 PM