

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 Commerce and Tourism

BILL: CS/SB 1560

INTRODUCER: Commerce and Tourism Committee and Senator Ausley

SUBJECT: Broadband Internet Service

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1560 updates the duties of the Florida Office of Broadband (Office) within the Department of Economic Opportunity (Department) to align its goals and duties with several federal broadband programs, and to encourage efficient identification and use of available federal resources. Specifically, the bill:

- Provides a definition for an “unserved” area to conform to definitions adopted by federal agencies and updates the definition of an “underserved” area;
- Expands the Office’s local technology planning teams’ duties to focus on rural, unserved, and underserved areas;
- Requires the Office to undertake mapping programs that identify Florida’s geographic availability of broadband, and assets that may be used for the further buildout of broadband infrastructure;
- Establishes the Broadband Opportunity Program to award grants for the expansion of broadband Internet service in unserved and underserved areas of Florida;
- Creates a Broadband Deployment Task Force within the Department to support and provide recommendations to the Office for the deployment of broadband Internet throughout Florida; and
- Assigns the Office a role in educating the public and assisting with the deployment of the Federal Emergency Broadband Benefit Program.

II. Present Situation:

Broadband Internet Deployment

Fixed and mobile broadband Internet services provide access to numerous employment, education, entertainment, and health care opportunities.¹ Access to a sufficient internet connection has only grown more important during the COVID-19 pandemic, which requires many Americans to connect to their family and friends, schooling, work, and even medical appointments over the internet.²

While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 78.6 percent.³ This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.⁴ Communities that lack broadband access can have difficulty attracting new capital investment.⁵ Additionally, data indicates that low-income households disproportionately lack access to broadband Internet service, which puts children in those households at risk of falling behind.⁶

Broadband internet is a high speed internet that is faster than dial-up access and is always on; in 2015, the Federal Communications Commission (FCC) defined broadband as 25/3 megabits per second (Mbps), i.e., 25 Mbps (download rate) and 3 Mbps (upload rate).⁷ Consumers can receive Broadband internet through several different technologies, including a digital subscriber line (DSL), a cable modem, fiber, wireless, satellite, and broadband over power lines.⁸

¹ U.S. Federal Communications Commission, *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), available at <https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf> (last visited Mar. 15, 2021).

² Federal Communications Commission, *Emergency Broadband Benefit Report and Order*, pp. 2-3 (Feb. 26, 2021), available at <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

³ U.S. Federal Communication Commission, *2021 Broadband Deployment Report* at 58. (Jan. 19, 2021), available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf> (last visited Mar. 15, 2021). For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ National Telecommunications and Information Administration, American Broadband Initiative, *Milestones Report*, at 11 (Feb. 13, 2019), available at https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Mar. 15, 2021). See also, Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 7 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

⁵ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, supra note 4 at p. 8.

⁶ New American Economy Research Fund, *Back to School: A Look at the Internet Access Gap* (Aug. 6, 2020), <https://research.newamericaneconomy.org/report/internet-access-covid-19/> (last visited Mar. 15, 2021).

⁷ Colby Leigh Rachfal, Congressional Research Service, *State Broadband Initiatives: Selected State and Local Approaches as Potential Models for Federal Initiatives to Address the Digital Divide* (Apr. 6, 2020), available at <https://crsreports.congress.gov/product/pdf/R/R46307> (last visited Mar. 15, 2021), citing Federal Communications Commission, *2019 Broadband Deployment Report*, p. 5 (May 29, 2019), available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2019-broadband-deployment-report> (last visited Mar. 15, 2021).

⁸ Congressional Research Service, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, p. 1 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 15, 2021).

Federal Broadband Initiatives

FCC Digital Opportunity Data Collection Program

The FCC collects and monitors data on broadband deployment in order to identify underserved and unserved localities in the United States.⁹ In August 2019, the FCC adopted the Digital Opportunity Data Collection Program, which modernized the collection of broadband deployment data by creating granular coverage maps, as opposed to census tract maps, and by implementing a process to accept public data to confirm the maps' accuracy.¹⁰ In March 2020, Congress ratified the FCC's Data Collection Program with passage of the Broadband Data Act, which requires the FCC to establish a semiannual collection of geographically granular broadband coverage data to use to create coverage maps.¹¹ Congress has allocated \$65 million to the FCC to achieve this mapping project.¹²

To create these geographic service maps, the FCC collects information from service providers according to specific reporting standards. The service providers must report their service coverage areas, including where their services were available to residences or businesses, and the speed and latency at which their services are delivered.¹³ The FCC also considers public testimony regarding service availability.

FCC's Rural Digital Opportunity Fund

In January 2020, the FCC established the Rural Digital Opportunity Fund (Fund) to fund the deployment of broadband networks in rural America over the next decade. The first phase of the Fund began in 2020 and made available up to \$16 billion to target census blocks that are wholly unserved by fixed broadband speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps).¹⁴ Florida entities received over \$190 million (to be distributed over the next 10 years) in this first round of funding.¹⁵

Phase II of the Fund will target underserved localities, as identified by the FCC's Digital Opportunity Data Collection Program.¹⁶ Using this more precise data, the second phase of FCC

⁹ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 1-2 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

¹⁰ *Id.* at p. 3. See also, Federal Communications Commission, *Digital Opportunity Data Collection Order and Further Notice*, 34 FCC Rcd at 7506, 7521, paras. 2, 3, 35.

¹¹ 47 U.S.C. §§642(a)(1)(A), (a)(2).

¹² Marguerite Reardon, CNET, *FCC Chair Rosenworcel Launches Broadband Mapping Taskforce* (Feb. 17, 2021), <https://www.cnet.com/news/fcc-chair-rosenworcel-launches-broadband-mapping-task-force/> (last visited Mar. 15, 2021).

¹³ Federal Communications Commission, *Establishing the Digital Opportunity Data Collection* pp. 5, 8-16 (Jan. 19, 2021), WC Docket No. 19-195, available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 15, 2021).

¹⁴ Federal Communications Commission, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, (last visited Mar. 15, 2021).

¹⁵ Federal Communications Commission, *Auction 904 Winning Bidders: Attachment A*, available at <https://www.fcc.gov/document/auction-904-winning-bidders> (last visited Mar. 15, 2021).

¹⁶ See, FCC Digital Opportunity Data Collection Program, *supra*.

grants will make available at least \$4.4 billion to target geographic areas where some locations lack access to 25/3 Mbps broadband.¹⁷

FCC's Emergency Broadband Benefit Program

Congress appropriated \$3.2 billion to expand broadband access via subsidies for broadband service to students, families, and unemployed workers.¹⁸ Eligible households can receive a discount of up to \$50 per month off their broadband service bill. A household is eligible to receive subsidies under the bill if any member of the household:¹⁹ qualifies for the Lifeline program, receives benefits under the free or reduce-price school lunch program, received a Federal Pell Grant, experienced a substantial loss of income in the last year and has a total household income in 2020 below \$99,000 for single filers and \$198,000 for joint filers, or meets criteria to participate in service providers' existing low-income or COVID-19 program.²⁰

U.S. Department of Agriculture ReConnect Program

The U.S. Department of Agriculture (USDA), through its ReConnect Program, offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service.²¹ Eligible entities include cooperatives and non-profits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants for a grant or a loan/grant combination under the ReConnect Program must submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.²²

Miscellaneous Federal Broadband Initiatives

Federal assets to assist with the expansion and promotion of broadband comes from a variety of other sources, for example:²³

- The FCC's E-Rate 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,²⁴

¹⁷ Federal Communications Commission, *Rural Digital Opportunity Fund Report and Order*, p. 3 (Feb. 7, 2020) WC Docket 19-126, available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0> (last visited Mar. 15, 2021).

¹⁸ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

¹⁹ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong., s. 904 (a)(6) (2021).

²⁰ Federal Communications Commission, *Emergency Broadband Benefit*, <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 15, 2021).

²¹ U.S. Department of Agriculture, *Broadband*, <https://www.usda.gov/broadband> (last visited Mar. 15, 2021).

²² *Id.*

²³ See generally, National Telecommunications and Information Administration, American Broadband Initiative, *Progress Report*, (June 2020), available at https://www.ntia.doc.gov/files/ntia/publications/abi_progress_report_june2020.pdf (last visited Mar. 15, 2021).

²⁴ Federal Communications Commission, E-Rate: Universal Service Program for Schools and Libraries (Sep. 16, 2020), <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate> (last visited Mar. 15, 2021). The Universal Service Administrative Company is a not-for-profit designated by the FCC to administer the Universal Service Fund. See also, Universal Service Administrative Co., E-Rate

- The U.S. Department of Housing and Urban Development²⁵ and Department of Education²⁶ offer block grants to support broadband infrastructure;
- The Department of the Interior launched a mapping tool to allow service providers to locate federal property available for infrastructure development;²⁷ and
- The National Telecommunications and Information Administration within the U.S. Department of Commerce is working to improve coordination between Federal programs that fund broadband and statewide efforts.²⁸

Additionally, the latest COVID-19 relief bill passed by Congress²⁹ included the following funding to expand broadband Internet access for students, families, and unemployed workers:³⁰

- \$300 million for rural broadband;
- \$250 million for the FCC’s telehealth program;
- \$285 million to fund a pilot program to assist with broadband issues at historically Black colleges and universities;
- \$1.9 billion for “rip and replace” efforts related to Huawei and ZTE equipment in U.S. networks; and
- \$1 billion in grants for tribal broadband programs.

Florida Broadband Program

In 2020 the Legislature created the Florida Office of Broadband (Office) within the Department of Economic Opportunity (Department).³¹ The Office is tasked with developing, marketing, and promoting broadband Internet service in the state.

Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in the state which must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- Build local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture;

²⁵ 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 Mar. 15, 2021).

²⁶ U.S. Department of Education, *Rural and Low-Income School Program*, <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Mar. 15, 2021). 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 Mar. 15, 2021).

²⁷ U.S. Department of Interior, *Supporting Broadband Tower Facilities in Rural America on Federal Properties Managed at Interior*, <https://www.doi.gov/broadband> (last visited Mar. 15, 2021).

²⁸ Broadband USA, *State Broadband Leaders Network* (Dec. 19, 2018), <https://broadbandusa.ntia.doc.gov/ntia-resources/state-broadband-leaders-network-sbln> (last visited Mar. 15, 2021).

²⁹ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong. (2021).

³⁰ NCSL, *COVID-19 Economic Relief Bill: Broadband* (Jan. 4, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 15, 2021).

³¹ Ch. 2020-26, Laws of Fla.

- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved³² areas of the state through grant programs; and
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida's rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs.³³

The DEO may apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to further the above goals.³⁴

Florida's Multi-use Corridors of Regional Economic Significance (M-CORES)

Section 339.0801(2)(b), F.S., provides that up to \$5 million of the funds transferred to Florida's Turnpike Enterprise³⁵ for the M-CORES program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor. The Department of Transportation must give specific priority to broadband infrastructure projects located in a rural area of opportunity³⁶ that is adjacent to a multiuse corridor.³⁷

III. Effect of Proposed Changes:

Office of Broadband Mapping Requirements

The bill expands the Office's duties to require it to develop a map of Florida's broadband Internet service availability by June 30, 2022, and to update it annually thereafter. This map must specifically identify:

- Where broadband-capable networks currently exist and where broadband Internet service is available to Florida's consumers.
- The download and upload rates at which service providers make broadband Internet service available to Florida's businesses and individuals.
- Gaps in Florida's broadband Internet service coverage—especially any areas that are underserved or unserved within rural areas of opportunity.
- Any other mapping information that another Florida agency has already compiled.
- Locations where broadband Internet service is not available, or is provided at speeds below 25/3 Mbps, as identified by public input.

The bill permits the Office to collaborate with Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to create a process to collect and

³² Section 364.0135(2)(d), F.S., defines the term "underserved" to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream

³³ Section 364.0135(4), F.S.

³⁴ Section 364.0135(5), F.S.

³⁵ The Florida Turnpike Enterprise is part of the Department of Transportation.

³⁶ Section 288.0656, F.S., defines a rural area of opportunity (RAO) as a rural community, or region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or natural disaster that presents a unique economic development opportunity of regional impact. RAO's are eligible for assistance and other support through the Rural Economic Development Initiative, administered by DEO.

³⁷ Section 339.0801(2)(b), F.S.

verify public data regarding the availability of broadband Internet service. This may be repetitive of the current requirement in 364.0135(4)(a), F.S., that the Office include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service in its strategic plan.

The Office must also verify any mapping data it receives from another governmental entity or a contractor by comparing it to the source of the data and by evaluating the third-party's collection methodology, study organization, and self-verification processes. This verification requirement also applies to the broadband availability data that a contractor who operates pursuant to a valid contract with the Office or a governmental entity collects. The contractor must also describe any third party it uses to provide the data.

The bill also requires the Office to create another map by June 30, 2022, that details Florida's broadband infrastructure assets. This map must include the location of any state and federal physical or funding assets that can be used for expanding broadband infrastructure by, e.g., burying or stringing fiber optic cable. Such assets include municipally or city-owned towers, public transportation corridors, capital projects, community-owned land and infrastructure (such as utility poles), and federal E-rate funding commitments.

Florida Broadband Opportunity Program

The bill creates the Broadband Opportunity Program (Grant Program), which will award grants of up to \$5 million per project to applicants who seek to expand access to broadband Internet service in unserved and underserved areas of the state. The Office will administer the Grant Program, and its administration is subject to appropriation. Entities may apply for grants to fund the installation or deployment of infrastructure that supports broadband Internet service in underserved or unserved areas.

Applicants must submit a grant application to the Office, which must include:

- A description of the project area;
- A description of the kind and amount of broadband Internet service infrastructure that is proposed;
- Evidence demonstrating the unserved or underserved nature of the project area and the number of households and businesses that would have new access to broadband Internet service, or that would have upgraded broadband Internet service as a result of the grant;
- A list of significant community institutions that would benefit from the grant;
- The total cost of the project and the timeframe in which it would be completed;
- Sources of funding or in-kind contributions that would supplement any awarded grant; and
- Any other information required by the Office.

The Office must publish the criteria and quantitative scoring system it will use to evaluate applications and award grants each fiscal year. The criteria and quantitative scoring system must include the criteria listed in the bill, as discussed below.

After it receives Grant Program applications, the Office must publish the proposed areas to be served and the proposed broadband Internet speed at which the area will be serviced. A broadband Internet service provider that provides existing service in, or adjacent to a proposed

project area may challenge the Grant Program applicant's plan. The challenge must demonstrate that:

- The provider currently has deployed broadband Internet service to retail customers within the proposed project area;
- The provider has begun construction to provide broadband Internet service to retail customers within the proposed project area; or
- The provider commits to providing broadband Internet service to retail customers within the proposed project area within the timeframe proposed by the applicant.

If the Office determines that the challenge is valid, the Office may not fund the challenged project. If a challenger fails to fulfill its commitment to provide broadband Internet service in accordance with its challenge, it is excluded from submitting another challenge for the next two grant cycles, unless the Office determines the failure to fulfill the commitment was due to circumstances beyond provider's control.

The Office must prioritize applications that:

- Offer broadband Internet service to community institutions including libraries, educational institutions, public safety facilities, and healthcare facilities;
- Facilitate the use of telemedicine and electronic health records;
- Serve economically distressed areas of the state;
- Provide for scalability to transmission speeds of at least 100/10 Mbps;
- Actively promote the adoption of the newly available broadband Internet services in the community;
- Provide evidence of strong support for the project from citizens, government, businesses, and institutions in the community;
- Provide access to broadband Internet service to the greatest number of unserved households and businesses;
- Leverage greater amounts of funding for the project from other private and public sources; or
- Demonstrate consistency with the Office's strategic plan.³⁸

The Office must attempt to award grants to qualified applicants in all regions of the state. The Office cannot award grants:

- To provide broadband Internet service to an area that already has broadband Internet service from at least one provider.
- To provide service in a project area that has received any other federal funding.
- To a governmental entity, rural electric cooperative or its broadband affiliate, or an educational institution or affiliate, for the purpose of providing broadband Internet service to any residential or commercial premises, unless other broadband Internet service providers have not deployed broadband Internet service to an unserved or underserved area.
- For the purpose of serving any retail end user that already has access to broadband Internet service.
- To any entity if, when combined with any other state or local funds, the grant will constitute more than 50 percent of the project's funding.

³⁸ The Office has yet to issue its strategic plan.

The Office must enter into an agreement with the applicant that is awarded a grant under the Grant Program. The agreement must specify the total amount of the grant, performance conditions, payment schedule, and sanctions for failure to meet performance conditions, including, but not limited to, requiring the return of grant funds.

By January 1, 2023, and each year thereafter, the Office must publish on its website and provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives:

- A list of all grant applications it received during the previous year and for each application:
 - The results of any quantitative weighting or scoring system the Office used to award grants or rank the applications.
 - The grant amount requested.
 - The grant amount awarded, if any.
 - A report on the progress of each grant recipient in acquiring and installing infrastructure that supports the provision of broadband Internet service in the project areas for which the grant was awarded and in securing adoption of such service in each project area.
- All written challenges during the previous year.

Florida Broadband Deployment Task Force

The bill creates a Broadband Deployment Task Force (Task Force) to support and provide recommendations to the Office for the deployment of broadband Internet service throughout Florida, including addressing the rural infrastructure issue and urban adoption strategies.

The bill establishes the Task Force's membership as follows:

- One member each from the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Transportation, the Department of Education, the Department of Health, and the Office of Technology and Information Services, all of whom will be appointed by his or her respective agency head;
- One member from the Florida Association of Counties, who will be appointed by the Department's executive director;
- One member of the Florida League of Cities, who will be appointed by the Department's executive director;
- Two members of the public—one who lives in an underserved area and one who lives in an unserved area of Florida—who will be appointed by the Governor; and
- A member from each of the following types of broadband industry providers, who will all be appointed by the Governor: a wireless provider, a wireline provider, a broadband satellite provider, a cable provider, a rural local exchange carrier, and a competitive local exchange carrier.

The bill outlines the following specific duties for the Task Force:

- Identify federal funding sources to assist with the expansion or improvement of broadband Internet in Florida;
- Identify geographic gaps in Florida's broadband Internet service coverage;

- Develop strategies to expand broadband Internet service to rural areas of opportunity³⁹— including establishing partnerships with local governments, other state and federal entities, electric utilities, businesses, and the public;
- Address the affordability of broadband Internet service in Florida;
- Identify funding sources to further deploy broadband Internet service throughout Florida, especially grants provided through the rural infrastructure fund;⁴⁰
- Coordinate with the Cabinet, state agencies, and other governmental entities that have oversight in broadband Internet activities or that control potential funding opportunities; and
- Recommend outreach strategies and partnerships to best use the federal Emergency Broadband Benefit Program.

The Task Force is required to submit a report that details its findings and recommendations to the Governor, President of the Florida Senate, and Speaker of the Florida House of Representatives by December 30, 2022, and each year thereafter.

Office of Broadband’s Role in the Emergency Broadband Benefit Program

The bill requires the Office to establish a process to identify households that may be eligible to receive a subsidy under the Emergency Broadband Benefit Program. The Office is also required to provide separate notice to identified households that they may be eligible to receive assistance under the Program along with information on other state or federal resources that may provide assistance with debt relief.

The bill adopts the federal Emergency Broadband Benefit Program recipient eligibility language.

Local Technology Planning Teams

Current law requires the Office to create local technology planning teams, the membership of which consists of representatives of education, health care, private business, agriculture, economic development organizations, local government, and tourism. Current law does not provide a specific purpose or goal for these teams. The bill adds language that targets the teams’ work to unserved and underserved communities—especially fiscally constrained counties. The bill outlines the following duties for the teams:

- Work with rural communities to help them understand their current availability;
- Locate unserved and underserved businesses or residents;
- Identify assets that may be used to further deploy broadband;
- Build partnerships with broadband service providers, and
- Identify opportunities to increase the use and deployment of broadband in the community.

³⁹ The currently designated rural areas of opportunity (RAOs) are the Northwest RAO, the South Central RAO, and the North Central RAO. See 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 Mar. 15, 2021).

⁴⁰ The Rural Infrastructure Fund (RIF) is administered by the DEO with the purpose of facilitating the planning and financing of rural infrastructure projects in Florida. A main goal of the RIF is to connect rural communities with infrastructure funding programs. See, Department of Economic Opportunity, *Rural Infrastructure Fund*, <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund> (last visited Mar. 15, 2021).

Miscellaneous

Legislative Findings

The bill updates the legislative findings to state that Florida’s sustainable adoption of broadband Internet service is essential to all its residents, rather than beneficial to specific entities.

Definitions

The bill adds a definition of the term “unserved” to mean a geographic area of Florida in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a speed of 25/3 Mbps—the speed used by the FCC to define sufficient broadband Internet.

The bill also amends the definition of “underserved” to mean a geographic area of Florida in which there is no internet service provider that offers a connection to the Internet with a capacity for transmission at a speed of 100/10 Mbps. This is higher than any current definition of broadband.

Public Records

The bill adds language that clarifies that any information that is confidential or exempt from public disclosure under ch. 119, F.S., when held by the Department is also confidential or exempt from ch. 119, F.S., when given to the Department by a broadband service provider pursuant to s. 364.0135, F.S.

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.⁴¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.⁴²

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that Florida agencies must provide access to its public records.⁴³ The Legislature may exempt specific types of public records from public access requirements,⁴⁴ the exemption must state with specificity the public necessity that justifies the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.⁴⁵ For example, section 288.075(3) and (4), F.S.,

⁴¹ Art. I, s. 24(a), Fla. Const.

⁴² *Id.*

⁴³ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁴⁴ Art. I, s. 24(c), Fla. Const.

⁴⁵ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189

make trade secrets held by an economic development agency and proprietary confidential business information held by an economic development agency, respectively, confidential and exempt from s. 119.071(1), F.S.

Effective Date

The bill takes effect on July 1, 2021.

IV. 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may ultimately help to provide more affordable broadband Internet service to Florida's communities by increasing related infrastructure and identifying funding sources to subsidize other related costs.

C. Government Sector Impact:

This bill will require the Office to undertake geographical mapping, gather public input, and perform outreach and informational campaigns. This will likely require additional funding.

(Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

Additionally, the bill creates the Broadband Opportunity Program, which is designed to administer grants to support the growth of broadband Internet infrastructure in Florida. The Office will likely require funds to staff this program. The general program is subject to appropriation, but has not yet been allocated any amount.

VI. Technical Deficiencies:

The definition of the Task Force states that it operates within the Office; the creation of the Task Force in s. 364.0135(5), F.S., states that it is established within the Department to support and provide recommendations to the Office. This inconsistency may lead to confusion while creating the Task Force.

The bill refers to a “board” that shall adjust its geographic information system maps to reflect information received from the public. This should refer to the “Office.”

VII. Related Issues:

The bill creates a Broadband Deployment Task Force that must perform specific duties and submit an annual report. Section 20.03, F.S., defines a “task force” as an advisory body that is created by a specific statutory enactment for a time not to exceed 3 years and that will cease to exist after it completes its assignment. The bill does not create a term of existence for the task force and further requires it to create and submit an annual report each year after its initial report is due in 2022. This may conflict with the duration of task forces described in s. 20.03, F.S.

The bill requires the Office to establish a mechanism to receive and verify public input as part of its mapping process. This may be repetitive of the current requirement in 364.0135(4)(a), F.S., that the Office include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service in its strategic plan.

The confidentiality and public record exemption language in s. 364.0135(6), F.S., of the bill appears to reiterate current confidentiality and public record exemption language that already exist elsewhere in law. Therefore, this language appears to be duplicative and unnecessary.

The Department may lack expertise to be able to direct consumers to state or federal resources that may provide assistance with debt relief as required by the bill.

VIII. Statutes Affected:

This bill substantially amends sections 364.0135 and 364.0136 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on March 15, 2021:

The CS creates the Broadband Opportunity Program to award grants to support

broadband Internet infrastructure in underserved and unserved areas of Florida. The Grant Program will be administered by the Office, and is subject to appropriation.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
