

By the Committees on Appropriations; and Commerce and Tourism;
and Senator Ausley

576-04435-21

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1 A bill to be entitled
2 An act relating to broadband Internet service;
3 amending s. 364.0135, F.S.; revising legislative
4 findings; redefining and defining terms; revising the
5 duties of the Florida Office of Broadband within the
6 Department of Economic Opportunity; requiring the
7 office's strategic plan to include short-term and
8 long-term goals and strategies for increasing the
9 availability of and access to broadband Internet
10 service in this state; providing requirements for the
11 development of the plan; requiring the updated plan to
12 be submitted to the Governor, the Chief Justice of the
13 Supreme Court, and the Legislature by a specified
14 date; requiring the plan to be updated biennially;
15 requiring local technology planning teams or
16 partnerships to work with rural communities for
17 specified purposes; requiring the office to provide
18 technical and planning assistance related to broadband
19 infrastructure to rural communities; requiring the
20 office to develop geographic information system maps
21 in collaboration with specified entities and
22 consistent with certain federal reporting standards by
23 a specified date; specifying required contents of the
24 maps; requiring the department to annually update such
25 maps and establish a mechanism to receive and verify
26 governmental and public input related to broadband
27 Internet service; authorizing the department to work
28 collaboratively with specified entities in developing
29 the mechanism; requiring the office to develop a

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30 broadband infrastructure asset map by a specified
31 date; specifying required contents of the map;
32 providing that certain information provided to the
33 department from broadband service providers retains
34 its exemption from public disclosure; providing
35 rulemaking authority; creating s. 364.0136, F.S.;
36 creating the Broadband Opportunity Program within the
37 office; providing for administration of the program;
38 providing requirements for grant awards; providing
39 eligibility requirements; providing application
40 requirements; requiring the office to publish certain
41 information related to grant applications and grant
42 awards on its website; authorizing grant applications
43 to be challenged under certain circumstances;
44 specifying contents of a challenge; providing
45 procedures to be used by the office in evaluating
46 challenges; providing direction for prioritizing grant
47 funding; specifying conditions for the award of
48 grants; requiring the office to enter into an
49 agreement containing specified information with each
50 grant recipient; requiring the office to publish
51 specified information annually on its website and
52 include the information in the department's annual
53 report; authorizing the department to adopt rules;
54 providing an effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Section 364.0135, Florida Statutes, is amended

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59 to read:

60 364.0135 Promotion of broadband adoption; Florida Office of
61 Broadband.—

62 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the
63 sustainable adoption of broadband Internet service is critical
64 to the economic and business development of this ~~the~~ state and
65 is essential ~~beneficial~~ for all residents of this state,
66 libraries, schools, colleges and universities, health care
67 providers, and community organizations.

68 (2) DEFINITIONS.—As used in this section, the term:

69 (a) "Department" means the Department of Economic
70 Opportunity.

71 (b) "Office" means the Florida Office of Broadband.

72 (c) "Sustainable adoption" means the ability for
73 communications service providers to offer broadband services in
74 all areas of this ~~the~~ state by encouraging adoption and use
75 ~~utilization~~ levels that allow for these services to be offered
76 in the free market absent the need for governmental subsidy.

77 (d) "Underserved" means a geographic area of this ~~the~~ state
78 in which there is no provider of broadband Internet service that
79 offers a connection to the Internet with a capacity for
80 transmission at a consistent speed of at least 100 ~~10~~ megabits
81 per second downstream and at least 10 megabits ~~1 megabit~~ per
82 second upstream.

83 (e) "Unserved" means a geographic area of this state in
84 which there is no provider of broadband Internet service that
85 offers a connection to the Internet with a capacity for
86 transmission at a consistent speed of at least 25 megabits per
87 second downstream and at least 3 megabits per second upstream.

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

94 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
95 Broadband is created within the Division of Community
96 Development in the department for the purpose of developing,
97 marketing, and promoting broadband Internet services in this ~~the~~
98 state. The office, in the performance of its duties, shall do
99 all of the following:

100 (a) Create a strategic plan that has short-term and long-
101 term goals and strategies for increasing and improving the
102 availability of and access to use of broadband Internet service
103 in this ~~the~~ state. In development of the plan, the department
104 shall incorporate applicable federal broadband activities,
105 including any efforts or initiatives of the Federal
106 Communications Commission, to improve broadband Internet service
107 in this state. The plan must identify available federal funding
108 sources for the expansion or improvement of broadband. The
109 strategic plan must be submitted to the Governor, the Chief
110 Justice of the Supreme Court, the President of the Senate, and
111 the Speaker of the House of Representatives by June 30, 2022.
112 The strategic plan must be updated biennially thereafter ~~The~~
113 ~~plan must include a process to review and verify public input~~
114 ~~regarding transmission speeds and availability of broadband~~
115 ~~Internet service throughout the state.~~

116 (b) Build and facilitate local technology planning teams or

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117 partnerships with members representing cross-sections of the
118 community, which may include, but are not limited to,
119 representatives from the following organizations and industries:
120 libraries, K-12 education, colleges and universities, local
121 health care providers, private businesses, community
122 organizations, economic development organizations, local
123 governments, tourism, parks and recreation, and agriculture. The
124 local technology planning teams or partnerships shall work with
125 rural communities to help the communities understand their
126 current broadband availability, locate unserved and underserved
127 businesses and residents, identify assets relevant to broadband
128 deployment, build partnerships with broadband service providers,
129 and identify opportunities to leverage assets and reduce
130 barriers to the deployment of broadband Internet services in the
131 community. The teams or partnerships must be proactive in
132 fiscally constrained counties in identifying and providing
133 assistance with applying for federal grants for broadband
134 Internet service.

135 (c) Provide technical and planning assistance related to
136 broadband infrastructure to rural communities.

137 (d)~~(e)~~ Encourage the use of broadband Internet service,
138 especially in the rural, unserved, or underserved communities of
139 this ~~the~~ state through grant programs having effective
140 strategies to facilitate the statewide deployment of broadband
141 Internet service. For any grants to be awarded, priority must be
142 given to projects that:

143 1. Provide access to broadband education, awareness,
144 training, access, equipment, and support to libraries, schools,
145 colleges and universities, health care providers, and community

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146 support organizations.

147 2. Encourage the sustainable adoption of broadband in
148 primarily underserved areas by removing barriers to entry.

149 3. Work toward encouraging investments in establishing
150 affordable and sustainable broadband Internet service in
151 underserved areas of this ~~the~~ state.

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

156 (e) ~~(d)~~ Monitor, participate in, and provide input in
157 proceedings of the Federal Communications Commission and other
158 federal agencies related to the geographic availability and
159 deployment of broadband Internet service in this ~~the~~ state as
160 necessary to ensure that this information is accurately
161 presented and that rural, unserved, and underserved areas of
162 this ~~the~~ state are best positioned to benefit from federal and
163 state broadband deployment programs.

164 (f) By June 30, 2022, and subject to appropriation, develop
165 geographic information system maps of broadband Internet service
166 availability throughout this state. The office shall collaborate
167 with broadband service providers, state agencies, local
168 governmental entities, private businesses, educational
169 institutions, and community organizations and leaders to develop
170 such maps.

171 1. The maps must do all of the following:

172 a. Be consistent with the Digital Opportunity Data
173 Collection program reporting standards established by the
174 Federal Communications Commission.

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175 b. Identify where broadband-capable networks exist and
176 broadband Internet service is available to end users.

177 c. Identify download and upload transmission speeds made
178 available to businesses and individuals in this state.

179 d. Identify gaps in broadband Internet service coverage,
180 specifying underserved and unserved areas within those areas of
181 this state designated as a rural area of opportunity under s.
182 288.0656(2).

183 e. Include any other mapping information already compiled
184 by other state agencies.

185 f. Be updated annually.

186 2. Any mapping data received from another governmental
187 entity or a contractor must be verified. Such data must be
188 verified against the source of the data and whether such entity
189 is able to demonstrate that it has employed a sound and reliable
190 methodology in the collection, organization, and verification of
191 the data it has submitted to the office. If a governmental
192 entity enters into a valid contract with a contractor to collect
193 broadband availability data, the entity must describe the third
194 party providing the data as well as the methodology used to
195 collect, organize, and verify the availability data provided.

196 3. The office must establish a mechanism to receive and
197 verify public input which identifies locations in which
198 broadband Internet service is not available, including locations
199 in which broadband Internet service is provided at data
200 transmission speeds below the standard established by the
201 Federal Communications Commission for broadband Internet
202 service. Upon verification, the office shall adjust its
203 geographic information system maps to reflect information

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204 received from the public. In developing and implementing this
205 mechanism, the office may work in collaboration with, and
206 receive staffing support and other resources from, Enterprise
207 Florida, Inc., state agencies, local governments, private
208 businesses, and community organizations.

209 (g) By June 30, 2022, and subject to appropriation, develop
210 a broadband infrastructure asset map that includes, but is not
211 limited to:

212 1. State and federal assets, including, but not limited to,
213 municipally or city-owned towers that may be used by providers;
214 rights-of-way that may be made available for easier and less
215 expensive access to burying or stringing fiber optic cable;
216 public transportation corridors; capital projects that may be
217 used as an opportunity to lay new fiber optic conduit for future
218 activation; and federal E-rate funding commitments; and

219 2. Community-owned land and infrastructure, including, but
220 not limited to, land that may be leased and utility poles that
221 may be used to expand broadband networks.

222 (h) Administer the Broadband Opportunity Program
223 established in s. 364.0136.

224 (5) CONFIDENTIALITY.—Any information that is confidential
225 or exempt from public disclosure under chapter 119 when in the
226 possession of the department retains its status as confidential
227 or exempt from disclosure under chapter 119 when provided by a
228 broadband service provider under this section.

229 (6) ~~(5)~~ ADMINISTRATION.—The department may:

230 (a) Apply for and accept federal funds for purposes of this
231 section.

232 (b) Enter into contracts necessary or useful to carry out

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233 the purposes of this section.

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

236 Section 2. Section 364.0136, Florida Statutes, is created
237 to read:

238 364.0136 Broadband Opportunity Program.—

239 (1) The Broadband Opportunity Program is established within
240 the Florida Office of Broadband within the Department of
241 Economic Opportunity to award grants to applicants who seek to
242 expand broadband Internet service to unserved and underserved
243 areas of this state. The office must administer and act as
244 fiscal agent for the program and is responsible for receiving
245 and reviewing applications and awarding grants. Funding for the
246 program shall be subject to appropriation.

247 (2) Grants awarded under this section shall fund the
248 installation or deployment of infrastructure that supports the
249 provision of broadband Internet service. State funds may not be
250 used to install or deploy broadband Internet service to a
251 geographic area in which broadband Internet service is already
252 deployed by at least one provider.

253 (3) Applicants eligible for grant awards include:

254 (a) Corporations, limited liability companies, general
255 partnerships, and limited partnerships that are organized under
256 the laws of this state or otherwise authorized to transact
257 business in this state.

258 (b) Indian tribes.

259 (c) A political subdivision in partnership with a provider
260 of broadband Internet service.

261 (4) The office may not award, directly or indirectly,

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262 grants under this section to a governmental entity, a rural
263 electric cooperative or its broadband affiliate, or an
264 educational institution or affiliate to provide broadband
265 Internet service to any residential or commercial premises,
266 unless other broadband Internet service providers have not
267 deployed service to an unserved or underserved area. This
268 subsection does not apply to provision of broadband Internet
269 service in an unserved or underserved area in a fiscally
270 constrained county as defined in s. 218.67.

271 (5) An eligible applicant shall submit a grant application
272 to the office on a form prescribed by the office. A grant
273 application must include all of the following information:

274 (a) A description of the project area.

275 (b) A description of the kind and amount of broadband
276 Internet service infrastructure which is proposed.

277 (c) Evidence demonstrating the unserved or underserved
278 nature of the project area.

279 (d) The number of households and businesses which would
280 have access to broadband Internet service as a result of the
281 grant.

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

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

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

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

289 (6) (a) At least 30 days before the first day grant
290 applications may be submitted each fiscal year, the office shall

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291 publish on its website the specific criteria and quantitative
292 scoring system it will use to evaluate or rank grant
293 applications. Such criteria and quantitative scoring system must
294 include the criteria set forth in subsection (7).

295 (b) Within 3 business days after the close of the grant
296 application process, the office shall publish on its website,
297 from each grant application submitted, the proposed unserved or
298 underserved areas to be served and the proposed broadband
299 Internet speeds of the areas to be served.

300 (c) A broadband Internet service provider that provides
301 existing service in or adjacent to a proposed project area may
302 submit to the office, within 45 days after publication of the
303 information under paragraph (b), a written challenge to an
304 application. The challenge must contain information
305 demonstrating that:

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

308 2. The provider has begun construction to provide broadband
309 Internet service to retail customers within the proposed project
310 area within the timeframe proposed by the applicant; or

311 3. The provider commits to providing broadband Internet
312 service to retail customers within the proposed project area
313 within the timeframe proposed by the applicant.

314 (d) Within 3 business days after the submission of a
315 written challenge, the office shall notify the applicant, in
316 writing, of the challenge.

317 (e) The office shall evaluate each challenge submitted
318 under this subsection. If the office determines that the
319 provider currently has deployed, has begun construction to

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320 provide, or commits to provide broadband Internet service in the
321 proposed project area, the office may not fund the challenged
322 project.

323 (f) If the office denies funding to an applicant as a
324 result of a broadband Internet service provider's challenge, and
325 the provider does not fulfill its commitment to provide
326 broadband Internet service in the unserved or underserved area,
327 the office may not consider another challenge from the provider
328 for the next two grant application cycles, unless the office
329 determines that the failure to fulfill the commitment was due to
330 circumstances beyond the provider's control.

331 (7) (a) Notwithstanding s. 364.0135(4) (c), in evaluating
332 grant applications and awarding grants, the office must give
333 priority to applications that:

334 1. Offer broadband Internet service to important community
335 institutions, including, but not limited to, libraries,
336 educational institutions, public safety facilities, and health
337 care facilities;

338 2. Facilitate the use of telemedicine and electronic health
339 records;

340 3. Serve economically distressed areas of this state, as
341 measured by indices of unemployment, poverty, or population loss
342 which are significantly greater than the statewide average;

343 4. Provide for scalability to transmission speeds of at
344 least 100 megabits per second download and 10 megabits per
345 second upload;

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

348 6. Provide evidence of strong support for the project from

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349 residents, government, businesses, and institutions in the
350 community;

351 7. Provide access to broadband Internet service to the
352 greatest number of unserved and underserved households and
353 businesses;

354 8. Leverage greater amounts of funding for a project from
355 private or federal sources; or

356 9. Demonstrate consistency with the strategic plan adopted
357 under s. 364.0135.

358 (b) The office must endeavor to award grants to qualified
359 applications serving all regions of this state.

360 (8) (a) A grant awarded under this section may not be used
361 to serve any retail end user that already has access to
362 broadband Internet service.

363 (b) A grant awarded under this section, when combined with
364 any state, local, or federal funds, may not fund more than 50
365 percent of the total cost of a project. However, the grant award
366 may fund more than 50 percent of the total cost of a project in
367 a fiscally constrained county as defined in s. 218.67.

368 (c) A single project may not be awarded a grant in excess
369 of \$5 million.

370 (9) For each grant awarded, the office shall enter into an
371 agreement with the applicant. The agreement must specify the
372 total amount of the grant, performance conditions that must be
373 met to obtain the grant, the schedule of payment, and sanctions
374 that would apply for failure to meet performance conditions,
375 including, but not limited to, requiring the return of grant
376 funds.

377 (10) By October 15, 2022, and each year thereafter, the

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378 office shall publish on its website and include in the
379 department's annual report required under s. 20.60 all of the
380 following information:

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

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

385 2. The grant amounts requested.

386 3. The grant amounts awarded, if any.

387 4. A report on the progress of each grant recipient in
388 acquiring and installing infrastructure that supports the
389 provision of broadband Internet service in the project areas for
390 which that grant was awarded and in securing adoption of such
391 service in each project area.

392 (b) All written challenges filed during the previous fiscal
393 year and the results of those challenges.

394 (11) The department may adopt rules to implement this
395 section.

396 Section 3. This act shall take effect July 1, 2021.