

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 378

Representatives Smith, R., Cera

Cosponsors: Representatives Hood, Riedel, Antonio, Carfagna, Scherer, Boggs, Hill, West, Rezabek, Sheehy, Miller, Lepore-Hagan, Bocchieri, Craig, LaTourette, Patterson, Rogers, Anielski, Arndt, Ashford, Boyd, Brown, Celebrezze, Clyde, Cupp, Dean, Edwards, Fedor, Galonski, Gavarone, Ginter, Green, Greenspan, Hambley, Holmes, Hoops, Howse, Ingram, Johnson, Kick, Koehler, Landis, Lanese, Lang, Leland, Lipps, Manning, McClain, O'Brien, Patton, Pelanda, Perales, Reece, Reineke, Ryan, Schaffer, Schuring, Seitz, Slaby, Stein, Strahorn, Sweeney, Sykes

A BILL

To amend section 184.10 and to enact sections 1
122.97, 122.971, 122.972, 122.973, 122.974, 2
122.975, 122.976, 122.977, 122.978, 122.979, 3
122.9710, 122.9711, 122.9712, 122.9713, and 4
5511.11 of the Revised Code to create the Ohio 5
Broadband Development Grant Program, to 6
encourage the Department of Transportation to 7
work with telecommunications providers to lay 8
fiber optic cable, and to make an appropriation. 9

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

Section 1. That section 184.10 be amended and sections 10
122.97, 122.971, 122.972, 122.973, 122.974, 122.975, 122.976, 11
122.977, 122.978, 122.979, 122.9710, 122.9711, 122.9712, 12
122.9713, and 5511.11 of the Revised Code be enacted to read as 13
follows: 14

Sec. 122.97. As used in sections 122.97 to 122.9713 of the 15
Revised Code: 16

(A) "Broadband service" means advanced telecommunications 17
capability that meets the benchmarks of the federal 18
communications commission's latest annual broadband progress 19
report, as issued pursuant to section 706 of the 20
Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56. 21

(B) "Broadband service provider" means an entity that 22
provides broadband service. 23

(C) "Internet service" means internet access service that 24
serves end users primarily at fixed endpoints using stationary 25
equipment, including fixed wireless services and fixed satellite 26
services, but does not meet the benchmarks of the federal 27
communications commission's latest annual broadband progress 28
report, as issued pursuant to section 706 of the 29
Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56. 30

(D) "Internet service provider" means an entity that 31
provides internet service. 32

(E) "Last-mile infrastructure" means broadband 33
infrastructure that connects a broadband service provider's 34
network to the end user customer's on-premise telecommunications 35
equipment. 36

(F) "Middle-mile infrastructure" means broadband 37
infrastructure that connects a broadband service provider's core 38
network infrastructure to last-mile infrastructure. 39

(G) "Political subdivision" has the same meaning as in 40
section 122.9511 of the Revised Code. 41

(H) "Project area" means an unserved area located within 42

the state proposed to be served by broadband service through a 43
grant issued under section 122.975 of the Revised Code. 44

(I) "Unserved area" means an area that does not have 45
broadband service according to the latest state broadband map. 46

Sec. 122.971. The director of development services shall 47
establish the Ohio broadband development grant program to 48
provide funds to extend broadband service to unserved areas of 49
the state. 50

Sec. 122.972. Recipients of a grant under the Ohio 51
broadband development grant program shall use the funds for the 52
construction of infrastructure to provide broadband service to 53
unserved areas. Construction shall include the acquisition and 54
installation of new middle-mile or last-mile infrastructure. 55
Construction may also include any of the following: obtaining 56
construction permits, construction of facilities, purchasing 57
equipment, and installation and testing of the broadband 58
service. 59

Sec. 122.973. The following may apply for a grant under 60
the Ohio broadband development grant program: 61

(A) Private businesses; 62

(B) Political subdivisions; 63

(C) Nonprofit entities; 64

(D) Cooperatives. 65

Sec. 122.974. To apply for a grant under the Ohio 66
broadband development grant program, an eligible applicant, as 67
described in section 122.973 of the Revised Code, shall submit 68
an application to the director of development services on a form 69
prescribed by the director. The application shall include all of 70

<u>the following information:</u>	71
<u>(A) The location of the project area;</u>	72
<u>(B) The kind and amount of broadband infrastructure to be installed for the project, including proposed speeds;</u>	73 74
<u>(C) Evidence that the project area is an unserved area;</u>	75
<u>(D) The number of households that will have access to broadband service as a result of the project;</u>	76 77
<u>(E) Significant community institutions that will benefit from the project;</u>	78 79
<u>(F) The total cost of the project;</u>	80
<u>(G) Sources of funding or in-kind contributions for the project that will supplement any grant award;</u>	81 82
<u>(H) The amount of grant money being sought;</u>	83
<u>(I) If the applicant is a political subdivision, evidence that not later than six weeks before submission of the application, the applicant contacted, in writing, all internet service providers providing internet service in the proposed project area, as depicted by the latest state broadband map, to ask for each internet service provider's plan to provide, within twenty-four months of the date that contact is made, broadband service in the project area to minimum upload and minimum download speeds that meet or exceed the benchmark upload and download speeds specified in the latest annual broadband progress report issued by the federal communications commission referenced in division (A) of section 122.97 of the Revised Code;</u>	84 85 86 87 88 89 90 91 92 93 94 95 96
<u>(J) Evidence of any responses by internet service</u>	97

<u>providers to the inquiries described in division (I) of this</u>	98
<u>section;</u>	99
<u>(K) Evidence demonstrating that the eligible applicant has</u>	100
<u>the financial, technical, and managerial resources necessary to</u>	101
<u>complete the project and to provide ongoing maintenance and</u>	102
<u>upgrades to the broadband infrastructure;</u>	103
<u>(L) A business plan demonstrating that the broadband</u>	104
<u>service to be provided will be sustainable after the grant award</u>	105
<u>is exhausted;</u>	106
<u>(M) Any additional information requested by the director.</u>	107
Sec. 122.975. <u>(A) The director of development services</u>	108
<u>shall evaluate applications and award grants under the Ohio</u>	109
<u>broadband development grant program. The director shall</u>	110
<u>prioritize issuance of grant awards to applicants in the</u>	111
<u>following order:</u>	112
<u>(1) Applications for project areas that have internet</u>	113
<u>service at speeds not greater than 3 megabits per second for</u>	114
<u>downloads and 768 kilobits per second for uploads as depicted by</u>	115
<u>the latest state broadband map;</u>	116
<u>(2) Applications for project areas that have internet</u>	117
<u>service at speeds of 3 megabits per second or greater for</u>	118
<u>downloads and 768 kilobits per second or greater for uploads,</u>	119
<u>but not greater than 10 megabits per second for downloads and 1</u>	120
<u>megabit per second for uploads as depicted by the latest state</u>	121
<u>broadband map;</u>	122
<u>(3) Applications for project areas that have internet</u>	123
<u>service at speeds of 10 megabits per second or greater for</u>	124
<u>downloads and 1 megabit per second or greater for uploads, but</u>	125
<u>not greater than the speed benchmarks for broadband service as</u>	126

defined in division (A) of section 122.97 of the Revised Code, 127
as depicted by the latest state broadband map. 128

(B) After classifying applications by priority under 129
division (A) of this section, the director shall further 130
evaluate applications within each classification to give 131
priority to applications that do any or all of the following: 132

(1) Offer new or substantially upgraded broadband service 133
to important community institutions, including, but not limited 134
to, libraries, educational institutions, public safety 135
facilities, and healthcare facilities; 136

(2) Facilitate the use of telemedicine and electronic 137
health records; 138

(3) Serve economically distressed areas of the state, as 139
measured by indices of unemployment, poverty, or population loss 140
that are significantly greater than the statewide average; 141

(4) Provide technical support and train residents, 142
businesses, and institutions in the community served by the 143
project to utilize broadband service; 144

(5) Include a plan to promote the newly available 145
broadband services in the community; 146

(6) Provide evidence of strong support for the project 147
from citizens, government, businesses, and institutions in the 148
community; 149

(7) Provide access to broadband service to a greater 150
number of unserved households and businesses; 151

(8) Leverage greater amounts of funding for the project 152
from public and private sources, including federal programs that 153
provide financial support for the deployment of new broadband 154

<u>infrastructure;</u>	155
<u>(9) Encourage the development of new or existing</u>	156
<u>industries through the use of broadband service.</u>	157
<u>(C) The director shall endeavor to award grants under this</u>	158
<u>section to qualified applicants in geographically dispersed</u>	159
<u>regions of the state.</u>	160
<u>(D) The director shall provide public notice of each grant</u>	161
<u>awarded under the program.</u>	162
<u>(E) The director shall deny a grant application if any</u>	163
<u>internet service provider's written response described in</u>	164
<u>division (J) of section 122.974 of the Revised Code credibly</u>	165
<u>demonstrates that either of the following apply:</u>	166
<u>(1) The internet service provider currently provides or</u>	167
<u>has begun construction to provide broadband service in the</u>	168
<u>proposed project area at minimum upload and minimum download</u>	169
<u>speeds that meet or exceed the benchmark upload and download</u>	170
<u>speeds specified in the latest annual broadband progress report</u>	171
<u>issued by the federal communications commission referenced in</u>	172
<u>division (A) of section 122.97 of the Revised Code.</u>	173
<u>(2) The internet service provider credibly commits to</u>	174
<u>complete construction and provide broadband service in the</u>	175
<u>proposed project area at minimum upload and minimum download</u>	176
<u>speeds that meet or exceed the benchmark upload and download</u>	177
<u>speeds specified in the latest annual broadband progress report</u>	178
<u>issued by the federal communications commission referenced in</u>	179
<u>division (A) of section 122.97 of the Revised Code within</u>	180
<u>twenty-four months of the date the contact is made.</u>	181
<u>(F) (1) If the director denies funding to an applicant as a</u>	182
<u>result of an internet service provider's commitment made under</u>	183

division (E) (2) of this section and the internet service 184
provider does not fulfill its commitment, the director shall be 185
prohibited for the following two grant cycles from denying 186
funding to an applicant for the same project area on the basis 187
of the same internet service provider providing a written 188
response under division (E) of this section. 189

(2) Division (F) (1) of this section shall not apply if the 190
director determines that the internet service provider's failure 191
to fulfill its commitment was the result of factors beyond the 192
internet service provider's control. 193

Sec. 122.976. Grant amounts awarded under section 122.975 194
of the Revised Code shall not exceed the lesser of: 195

(A) Fifty per cent of the total project cost; or 196

(B) Five million dollars. 197

Sec. 122.977. If a recipient of a grant awarded under 198
section 122.975 of the Revised Code does not spend all of the 199
funds awarded to the recipient, the director of development 200
services may, in the director's sole discretion, reallocate the 201
unspent funds to other grant applicants, provided that the 202
reallocation does not result in the total amount awarded to any 203
single applicant exceeding the limit set forth in section 204
122.976 of the Revised Code. 205

Sec. 122.978. An entity that provides broadband service in 206
the state may challenge a grant awarded under section 122.975 of 207
the Revised Code on the basis that the entity already provides 208
broadband service in the proposed project area. 209

Sec. 122.979. A challenge under section 122.978 of the 210
Revised Code shall meet the following requirements: 211

<u>(A) It shall be made in writing;</u>	212
<u>(B) It shall include evidence demonstrating that the</u>	213
<u>entity provides broadband service in the proposed project area,</u>	214
<u>including either of the following:</u>	215
<u>(1) Form 477 the entity filed with the federal</u>	216
<u>communications commission for the current or preceding calendar</u>	217
<u>year;</u>	218
<u>(2) Invoices for broadband service subscriptions for the</u>	219
<u>current or preceding calendar year within the proposed project</u>	220
<u>area.</u>	221
<u>(C) It shall be received by the director of development</u>	222
<u>services not later than thirty days after public notice of the</u>	223
<u>grant award is issued under division (D) of section 122.975 of</u>	224
<u>the Revised Code.</u>	225
<u>Sec. 122.9710. The entity making a challenge under section</u>	226
<u>122.978 of the Revised Code shall provide a copy of the</u>	227
<u>challenge to the grant recipient.</u>	228
<u>Sec. 122.9711. (A) Not later than thirty days after</u>	229
<u>receiving a challenge under section 122.978 of the Revised Code,</u>	230
<u>the director of development services shall review the challenge</u>	231
<u>and do one of the following:</u>	232
<u>(1) Reject the challenge on the basis of incomplete or</u>	233
<u>insufficient evidence of broadband service in the project area;</u>	234
<u>(2) Allow the grant recipient to revise its application to</u>	235
<u>remove the challenged area from the proposed project;</u>	236
<u>(3) Terminate the grant award and reallocate the funds to</u>	237
<u>another applicant in accordance with section 122.977 of the</u>	238
<u>Revised Code.</u>	239

(B) If the director makes a determination under division 240
(A) (2) of this section, the director shall modify the grant 241
award for the proposed project accordingly. 242

Sec. 122.9712. An applicant that receives a grant under 243
section 122.975 of the Revised Code shall own the infrastructure 244
installed pursuant to the grant award, and shall be responsible 245
for ongoing maintenance and upgrades to such infrastructure. 246

Sec. 122.9713. The director of development services shall 247
adopt rules under Chapter 119. of the Revised Code necessary to 248
implement sections 122.97 to 122.9713 of the Revised Code. The 249
rules shall include procedures governing the application and 250
grant-award processes. 251

Sec. 184.10. As used in sections 184.10 to 184.20 of the 252
Revised Code: 253

(A) "In-state entity" includes individuals, public and 254
private entities, agencies, and institutions, private companies 255
or organizations, partnerships, business trusts, or other 256
business entities or ventures, or research organizations, 257
whether for profit or not for profit, that have substantial 258
presence in Ohio. 259

(B) "Research and development projects" means projects or 260
activities in support of Ohio industry, commerce, and business, 261
which include, without limitation, research and product 262
innovation, development, and commercialization through efforts 263
by, and may include collaboration among, Ohio business and 264
industry, state and local public entities and agencies, public 265
and private institutions, research organizations, or other in- 266
state entities specifically formed for the sole purpose of both 267
investing in and providing direct management support to any one 268

or combination of any of the foregoing entities or any other in- 269
state entities. Those projects and activities also include 270
projects and activities supporting any and all matters related 271
to research and development purposes including: attracting 272
researchers and research teams by endowing chairs or otherwise; 273
developing and commercializing products and processes; 274
promoting, developing, and securing intellectual property 275
matters and rights such as copyrights and patents; promoting, 276
developing, and securing property interests, including time 277
sharing arrangements; ~~and~~ promoting, developing, and securing 278
financial rights and matters such as royalties, licensing, and 279
other financial gain or sharing resulting from research and 280
development; and evaluating and overseeing the expansion of 281
broadband service to unserved areas of the state under sections 282
122.97 to 122.9713 of the Revised Code. 283

Sec. 5511.11. The director of transportation is hereby 284
encouraged to work with telecommunications providers in an 285
effort to lay fiber optic cable on or near state highways when 286
creating new or fixing existing state highways. 287

Section 2. That existing section 184.10 of the Revised 288
Code is hereby repealed. 289

Section 3. All items in this section are hereby 290
appropriated as designated out of any moneys in the state 291
treasury to the credit of the designated fund. For all 292
appropriations made in this act, those in the first column are 293
for fiscal year 2018 and those in the second column are for 294
fiscal year 2019. The appropriations made in this act are in 295
addition to any other appropriations made for the FY 2018-FY 296
2019 biennium. 297

DEV DEVELOPMENT SERVICES AGENCY 298

Bond Research and Development Fund Group			299
7011	195605	Broadband Development \$50,000,000	\$50,000,000 300
		Grants	301
TOTAL BRD Bond Research and Development			302
Fund Group		\$50,000,000	\$50,000,000 303
TOTAL ALL BUDGET FUND GROUPS		\$50,000,000	\$50,000,000 304
		BROADBAND DEVELOPMENT GRANTS	305
		The foregoing appropriation item 195605, Broadband	306
		Development Grants, shall be used to award grants under the Ohio	307
		Broadband Development Grant Program as described in sections	308
		122.97 to 122.9713 of the Revised Code.	309
		Of the foregoing appropriation item 195605, Broadband	310
		Development Grants, \$1,000,000 in each fiscal year shall be used	311
		to contract with one or more independent organizations that have	312
		experience working with Ohio broadband providers for the purpose	313
		of (1) collecting broadband deployment data from Ohio broadband	314
		providers; (2) verifying the data's accuracy through on-the-	315
		ground testing; (3) creating annual state and county broadband	316
		maps that show the availability of broadband service at various	317
		upload speeds throughout the state; (4) analyzing the data to	318
		help inform future investments in broadband infrastructure; (5)	319
		conducting business and residential surveys that measure	320
		broadband adoption and use in the state; and (6) engaging	321
		communities and facilitating local technology planning to	322
		provide evidence of local support for grant projects and	323
		potential economic impacts of grant projects.	324
		Section 4. Within the limits set forth in this act, the	325
		Director of Budget and Management shall establish accounts	326

indicating the source and amount of funds for each appropriation 327
made in this act and shall determine the form and manner in 328
which appropriation accounts shall be maintained. Expenditures 329
from appropriations contained in this act shall be accounted for 330
as though made in Am. Sub. H.B. 49 of the 132nd General 331
Assembly. 332

The appropriations made in this act are subject to all 333
provisions of Am. Sub. H.B. 49 of the 132nd General Assembly 334
that are generally applicable to such appropriations. 335