As Passed by the House

132nd General Assembly
Regular Session
Sub. H. B. No. 378
2017-2018

Representatives Smith, R., Cera

A BILL

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

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

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

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

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

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

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

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

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

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

(H) "Project area" means an unserved area located within
the state proposed to be served by broadband service through a
grant issued under section 122.975 of the Revised Code.

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

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

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

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

(A) Private businesses;

(B) Political subdivisions;

(C) Nonprofit entities;

(D) Cooperatives.

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

(A) The location of the project area;

(B) The kind and amount of broadband infrastructure to be installed for the project, including proposed speeds;

(C) Evidence that the project area is an unserved area;

(D) The number of households that will have access to broadband service as a result of the project;

(E) Significant community institutions that will benefit from the project;

(F) The total cost of the project;

(G) Sources of funding or in-kind contributions for the project that will supplement any grant award;

(H) The amount of grant money being sought;

(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;

(J) Evidence of any responses by internet service
providers to the inquiries described in division (I) of this section:

(K) Evidence demonstrating that the eligible applicant has the financial, technical, and managerial resources necessary to complete the project and to provide ongoing maintenance and upgrades to the broadband infrastructure;

(L) A business plan demonstrating that the broadband service to be provided will be sustainable after the grant award is exhausted;

(M) Any additional information requested by the director.

Sec. 122.975. (A) The director of development services shall evaluate applications and award grants under the Ohio broadband development grant program. The director shall prioritize issuance of grant awards to applicants in the following order:

(1) Applications for project areas that have internet service at speeds not greater than 3 megabits per second for downloads and 768 kilobits per second for uploads as depicted by the latest state broadband map;

(2) Applications for project areas that have internet service at speeds of 3 megabits per second or greater for downloads and 768 kilobits per second or greater for uploads, but not greater than 10 megabits per second for downloads and 1 megabit per second for uploads as depicted by the latest state broadband map;

(3) Applications for project areas that have internet service at speeds of 10 megabits per second or greater for downloads and 1 megabit per second or greater for uploads, but not greater than the speed benchmarks for broadband service as
defined in division (A) of section 122.97 of the Revised Code, as depicted by the latest state broadband map.

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

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

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

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

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

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

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

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

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

(9) Encourage the development of new or existing industries through the use of broadband service.

(C) The director shall endeavor to award grants under this section to qualified applicants in geographically dispersed regions of the state.

(D) The director shall provide public notice of each grant awarded under the program.

(E) The director shall deny a grant application if any internet service provider's written response described in division (J) of section 122.974 of the Revised Code credibly demonstrates that either of the following apply:

(1) The internet service provider currently provides or has begun construction to provide broadband service in the proposed project area at 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.

(2) The internet service provider credibly commits to complete construction and provide broadband service in the proposed project area at 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 within twenty-four months of the date the contact is made.

(F)(1) If the director denies funding to an applicant as a result of an internet service provider's commitment made under
division (E)(2) of this section and the internet service provider does not fulfill its commitment, the director shall be prohibited for the following two grant cycles from denying funding to an applicant for the same project area on the basis of the same internet service provider providing a written response under division (E) of this section.

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

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

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

(B) Five million dollars.

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

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

Sec. 122.979. A challenge under section 122.978 of the Revised Code shall meet the following requirements:
(A) It shall be made in writing;

(B) It shall include evidence demonstrating that the entity provides broadband service in the proposed project area, including either of the following:

(1) Form 477 the entity filed with the federal communications commission for the current or preceding calendar year;

(2) Invoices for broadband service subscriptions for the current or preceding calendar year within the proposed project area.

(C) It shall be received by the director of development services not later than thirty days after public notice of the grant award is issued under division (D) of section 122.975 of the Revised Code.

Sec. 122.9710. The entity making a challenge under section 122.978 of the Revised Code shall provide a copy of the challenge to the grant recipient.

Sec. 122.9711. (A) Not later than thirty days after receiving a challenge under section 122.978 of the Revised Code, the director of development services shall review the challenge and do one of the following:

(1) Reject the challenge on the basis of incomplete or insufficient evidence of broadband service in the project area;

(2) Allow the grant recipient to revise its application to remove the challenged area from the proposed project;

(3) Terminate the grant award and reallocate the funds to another applicant in accordance with section 122.977 of the Revised Code.
(B) If the director makes a determination under division (A)(2) of this section, the director shall modify the grant award for the proposed project accordingly.

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

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

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

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

(B) "Research and development projects" means projects or activities in support of Ohio industry, commerce, and business, which include, without limitation, research and product innovation, development, and commercialization through efforts by, and may include collaboration among, Ohio business and industry, state and local public entities and agencies, public and private institutions, research organizations, or other in-state entities specifically formed for the sole purpose of both investing in and providing direct management support to any one
or combination of any of the foregoing entities or any other in-
state entities. Those projects and activities also include
projects and activities supporting any and all matters related
to research and development purposes including: attracting
researchers and research teams by endowing chairs or otherwise;
developing and commercializing products and processes;
promoting, developing, and securing intellectual property
matters and rights such as copyrights and patents; promoting,
developing, and securing property interests, including time
sharing arrangements; and promoting, developing, and securing
financial rights and matters such as royalties, licensing, and
other financial gain or sharing resulting from research and
development; and evaluating and overseeing the expansion of
broadband service to unserved areas of the state under sections
122.97 to 122.9713 of the Revised Code.

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

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

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

The foregoing appropriation item 195605, Broadband Development Grants, shall be used to award grants under the Ohio Broadband Development Grant Program as described in sections 122.97 to 122.9713 of the Revised Code.

Of the foregoing appropriation item 195605, Broadband Development Grants, $1,000,000 in each fiscal year shall be used to contract with one or more independent organizations that have experience working with Ohio broadband providers for the purpose of (1) collecting broadband deployment data from Ohio broadband providers; (2) verifying the data's accuracy through on-the-ground testing; (3) creating annual state and county broadband maps that show the availability of broadband service at various upload speeds throughout the state; (4) analyzing the data to help inform future investments in broadband infrastructure; (5) conducting business and residential surveys that measure broadband adoption and use in the state; and (6) engaging communities and facilitating local technology planning to provide evidence of local support for grant projects and potential economic impacts of grant projects.

Section 4. Within the limits set forth in this act, the Director of Budget and Management shall establish accounts...
indicating the source and amount of funds for each appropriation made in this act and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 49 of the 132nd General Assembly.

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