

_____ offers the following
substitute to HB 608:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
2 so as to provide for planning, deployment, and incentives of broadband services throughout
3 the state; to provide for definitions; to provide for certain powers, duties, and responsibilities
4 of the OneGeorgia Authority and the Department of Community Affairs relative to funding
5 and contractual awards for the deployment of broadband services to unserved areas and
6 unserved locations within such areas; to provide certain criteria and conditions for such
7 awards; to establish a process and procedure for the department to receive and investigate
8 comments and suggestions related to proposed awards; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
13 in paragraph (9) of Code Section 50-34-2, relating to definitions relative to the "OneGeorgia
14 Authority Act," by deleting "and" at the end of subparagraph (G), by replacing the period
15 with "; and" at the end of subparagraph (H), and by adding a new subparagraph to read as
16 follows:

17 "(I) The construction, improvement, modification, purchase, or lease of property or
 18 communications services or facilities, including, without limitation, backhaul and
 19 transport, to facilitate the provision of broadband services through contracts with
 20 qualified broadband providers the authority determines as necessary to further advance
 21 the purposes and goals of the Georgia Broadband Deployment Initiative provided for
 22 in Code Section 50-40-80. As used in this subparagraph, the terms 'broadband services'
 23 and 'qualified broadband provider' shall have the same meaning as provided in Code
 24 Section 50-40-1."

25 SECTION 2.

26 Said title is further amended by revising Code Section 50-40-1, relating to definitions relative
 27 to the promotion and deployment of broadband services, as follows:

28 "50-40-1.

29 As used in this chapter, the term:

30 (1) 'Broadband network project' means any deployment of broadband services.

31 (2) 'Broadband services' means a wired or wireless terrestrial service that consists of the
 32 capability to transmit at a rate of not less than 25 megabits per second in the downstream
 33 direction and at least 3 megabits per second in the upstream direction to end users and in
 34 combination with such service provides:

35 (A) Access to the ~~Internet~~ internet; or

36 (B) Computer processing, information storage, or protocol conversion.

37 (3) 'Broadband services provider' means any provider of broadband services or a public
 38 utility or any other person or entity that builds or owns a broadband network project.

39 (3.1) 'Department of Community Affairs' or 'department' means the Department of
 40 Community Affairs created under Code Section 50-8-1.

41 (4) 'Development authority' shall have the same meaning as provided in Code
 42 Section 36-62A-20.

- 43 (5) 'Eligible applicants' means any or all public bodies or qualified broadband providers,
 44 designated by the Department of Community Affairs pursuant to paragraph (2) of
 45 subsection (b) of Code Section 50-40-81, as political subdivisions or qualified broadband
 46 providers qualified to apply for funds under this article.
- 47 (6) 'Local authority' shall have the same meaning as provided in Code
 48 Section 36-82-220.
- 49 (7) 'Location' means any residence, dwelling, home, business, or building.
- 50 (8) 'Political subdivision' means a county, municipal corporation, consolidated
 51 government, or local authority.
- 52 (9) 'Qualified broadband provider' means an entity that is authorized to apply for or that
 53 obtains a certificate of authority issued pursuant to Code Section 46-5-163 that:
- 54 (A)(i) Has, directly or indirectly, been providing broadband services to at least 1,000
 55 locations; and
- 56 (ii) Has been conducting business in the state for at least three years with a
 57 demonstrated financial, technical, and operational capability to operate a broadband
 58 services network; or
- 59 (B) Is able to demonstrate financial, technical, and operational capability to operate a
 60 broadband services network.
- 61 (10) 'Served area' means a census block that is not designated by the Department of
 62 Community Affairs as an unserved area.
- 63 (11) 'Unserved area' means a census block in which broadband services are not available
 64 to 20 percent or more of the locations as determined by the Department of Community
 65 Affairs pursuant to Article 2 of this chapter.
- 66 (12) 'Unserved location' means a location that does not have access to broadband
 67 services."

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SECTION 3.

Said title is further amended by revising Code Section 50-40-22, relating to petition contesting maps, as follows:

"50-40-22.

(a) An entity that is authorized to apply for or that obtains a certificate of authority pursuant to Code Section 45-5-163, a broadband services provider, or a political subdivision may file a petition with the Department of Community Affairs along with data specifying locations or census blocks which the petitioner alleges should be designated differently than as shown on the map published on the website of the Department of Community Affairs pursuant to Code Section 50-40-21. Upon receipt of such petition and data, the Department of Community Affairs shall provide notice of the petition on the Department of Community Affairs' website and shall notify all broadband services providers furnishing broadband services in ~~such census block or any census block in which any such locations are positioned~~ this state. Such broadband services providers shall have 45 days after the date such notice is sent to furnish information to the Department of Community Affairs showing whether the locations that are the subject of the petition currently have broadband services available. The Department of Community Affairs shall determine whether the designation of such locations or census blocks should be changed and shall issue such determination within 75 days of the date the notice is sent to the broadband services provider.

(b) Any determination made by the Department of Community Affairs pursuant to this Code section shall be final and not subject to review, and any such determination shall not be a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

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SECTION 4.

Said title is further amended by revising Code Section 50-40-81, relating to development of Georgia Broadband Deployment Initiative, funding awards, considerations, priorities, and compliance with federal provisions, as follows:

"50-40-81.

(a) ~~On or before July 1, 2019, the~~ The Department of Community Affairs shall develop and maintain the 'Georgia Broadband Deployment Initiative' program ~~to provide funding awards~~ to expand broadband services to unserved locations in unserved areas of the state through funding awards or through OneGeorgia Authority contractual awards. The goal of such program shall be to provide broadband services coverage throughout the entire state. The funding or contractual awards of the program shall represent the state's investment in the deployment of broadband services to unserved locations in unserved areas and shall be used only for capital expenses and expenses directly related to the construction, improvement, modification, purchase, or lease of property or communications services or facilities, including, without limitation, backhaul and transport, to facilitate the provision of broadband services.

(b)(1) Funding or contractual awards, in the form of grants, contracts, or loans, shall be competitively awarded to eligible applicants based on criteria consistent with this article and other factors established by the department; provided, however, that the department shall not discriminate between different types of broadband services technology as long as the technology is capable of transmitting data at the rates specified for each unserved area.

(2) The department shall designate political subdivisions and qualified broadband service providers as eligible applicants that shall be qualified to apply for funding or contractual awards under this article. All ~~such~~ eligible applicants that are political subdivisions are hereby granted all powers necessary for any and all purposes of the program, and in the case of any development authority included as an eligible applicant, the exercise of such

119 powers is hereby found and determined to promote the development of trade, commerce,
120 industry, and employment opportunities.

121 (c) Funding or contractual awards shall be based on appropriations of funds or receipt of
122 other funds to support the program. In no instance shall any state funds be used to support
123 a project that will provide broadband services to any locations where broadband services
124 are already available from a broadband services provider. An eligible applicant shall not
125 receive a funding or contractual award for the same project or geographic area for which
126 the eligible applicant has already obtained federal, state, or local government funding
127 specifically to support the expansion of broadband services or facilities.

128 (d) The department shall consider each of the following in the funding or contractual
129 awards process:

130 (1) The effectiveness of ~~the~~ any partnership that may exist between an eligible applicant
131 and a qualified broadband services provider for the deployment of broadband services or
132 facilities;

133 (2) The benefit to the unserved locations or the unserved area in terms of the population
134 served and the capacity and scalability of the technology to be deployed; and

135 (3) The total project cost and the ability to leverage other available ~~federal, local;~~ and
136 private funds.

137 (e) In addition to the criteria provided in subsection (d) of this Code section, the
138 department may establish any other criteria for determining any funding or contractual
139 awards that are reasonable and necessary to ensure that the funds are utilized to provide
140 broadband services to the unserved areas. Such criteria may include, but shall not be
141 limited to:

142 (1) Whether the ~~qualified broadband services provider in the partnership~~ eligible
143 applicant is willing to agree to:

- 144 (A) Not charge more for broadband services to customers in any unserved area for
145 which a funding award is received than it does for the same or similar broadband
146 services to customers in other areas of the state; and
- 147 ~~(B) Serve 90 percent of any locations requesting broadband services in any unserved~~
148 ~~area for which a funding award is received; and~~
- 149 ~~(C)~~(B) Meet or exceed in any unserved area for which it receives a grant funding or
150 contractual award a minimum level of dependable service as established by the
151 department;
- 152 (2) The benefit to businesses; industrial parks; education centers; hospitals and other
153 health care facilities, such as telehealth facilities and emergency care facilities;
154 government buildings; public safety departments; or other providers of public services
155 located within the unserved area;
- 156 (3) Data cap limits, signal latency, and reliability of the technology to be utilized;
- 157 (4) Historic service issues in other areas served by the qualified broadband services
158 provider in the partnership; and
- 159 (5) The length of time it will take to deploy the broadband services in the unserved area
160 or to the unserved locations.
- 161 (f) The department shall give competitive priority to any unserved area certified as a
162 broadband ready community as provided in Article 3 of this chapter. ~~Partnerships that~~
163 ~~include~~ Eligible applicants that are or partner with qualified broadband providers that
164 cooperate in providing information requested pursuant to subsection (d) of Code Section
165 50-40-21, as applicable, shall also factor favorably into the competitive funding or
166 contractual awards process.
- 167 (g) As part of the application process and prior to awarding funds or a contract to an
168 eligible applicant, the department shall establish a period of at least 60 days after the date
169 the applications for funding or contractual awards are published on the department's
170 website, during which time the department shall accept comments or objections concerning

171 each application. In deciding whether an eligible applicant should be awarded funding or
172 a contract, the department shall consider all comments or objections received and
173 investigate them as needed. If a comment or objection submitted by another eligible
174 applicant requires an investigation and the comment or objection is found to be inaccurate,
175 such eligible applicant shall reimburse the department for the cost of verifying the
176 information upon a finding by the department that the applicant did not perform due
177 diligence prior to submitting the comment or objection.

178 (h) The department shall not award funds or a contract to an eligible applicant if verifiable
179 information is made available that shows any of the following:

180 (1) The proposed project includes a served location;

181 (2) The department receives a sworn statement from an officer of a broadband services
182 provider that the proposed project includes a location where construction of a network
183 to provide broadband services is underway, and the construction is scheduled to be
184 completed within one year after the date of the application; or

185 (3) The department receives a sworn statement from an officer of a broadband services
186 provider that the proposed project includes a specific geographic area where an eligible
187 applicant has been selected to receive funding, provisionally or otherwise, from the
188 Federal Communications Commission or the United States Department of Agriculture
189 specifically for the expansion of broadband services; provided, however, that this
190 paragraph shall not apply to an area if either of the following has occurred:

191 (A) The eligible applicant did not complete the requirements for obtaining the funding
192 described in this paragraph; or

193 (B) The time period for the eligible applicant to meet its obligation described in this
194 paragraph expired and the geographic area remains an unserved area.

195 (i) Nothing in this Code section shall prohibit an applicant from submitting a revised
196 application to remedy issues identified pursuant to subsection (h) of this Code section.

197 (j) The department shall not, as a condition of an award of money through a funding or
198 contractual award, impose an open network architecture requirement, rate regulation, or
199 other term or condition of service that differs from the eligible applicant's terms or
200 conditions of broadband services in other broadband services areas of the eligible applicant.
201 ~~(g)~~(k) The department shall ensure that the program complies with all applicable federal
202 laws, rules, and regulations."

203 **SECTION 5.**
204 All laws and parts of laws in conflict with this Act are repealed.