

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 Governmental Oversight and Accountability Committee

BILL: CS/SB 2092

INTRODUCER: Committee on Communications, Energy, and Public Utilities and Senator King

SUBJECT: Cable and Video Services

DATE: April 14, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	Fav/CS
2.	Naf	Wilson	GO	Favorable
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill authorizes the Department of Management Services (department) to work with and receive staffing support and other resources from Enterprise Florida, Inc.¹, state agencies, local governments, private business, and community organizations to:

- Conduct a needs assessment of broadband Internet service to develop geographical information system maps at the census block level that identify geographic gaps in broadband services; available transmission speeds; and a baseline assessment of percentage of households with broadband availability.
- Create a strategic plan with goals and strategies for increasing use of broadband Internet service.
- Build and facilitate local technology planning teams or partnerships with members representing a cross-section of the community.
- Encourage use of broadband Internet service, especially in the rural, unserved, and underserved areas, and set priorities for grants.

¹ Enterprise Florida, Inc. is a public-private partnership serving as an organization devoted to Florida's statewide economic development. See <http://www.eflorida.com/ContentSubpage.aspx?id=206>, last viewed April 15, 2009.

The department may apply for and accept federal funds for purposes of this section, as well as gifts and donations from individuals, foundations, and private organizations. The department may enter into contracts and is authorized to adopt rules to carry out the purposes of the bill.

This bill creates a new, undesignated section of the Florida Statutes.

II. Present Situation:

The American Recovery and Reinvestment Act (ARRA or act) of 2009 includes provisions for a broadband technology opportunities program administered by the National Telecommunications and Information Administration within the Department of Commerce. The ARRA establishes a national Broadband Technology Opportunities Program, the purposes of which are to provide:

- Access to broadband service to consumers residing in unserved areas;
- Improved access to broadband service to consumers residing in underserved areas;
- Broadband education awareness, training, access, equipment, and support to:
 - Schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service;
 - Organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and
 - Job-creating strategic facilities;
- Improved access to, and use of, broadband service by public safety agencies; and
- Stimulation of the demand for broadband service, stimulation of economic growth, and job creation.

Grants Program

The Assistant Secretary of the Department of Commerce (Assistant Secretary) may consult with a state to identify unserved or underserved areas and for allocation of grant funds within that state for projects in or affecting the state. The Assistant Secretary is also required to establish and implement the grant program as expeditiously as practicable, and such grant awards must be made before the end of fiscal year 2010. The federal share of any project may not exceed 80 percent unless a waiver is granted by the Assistant Secretary upon a demonstration of financial need. Grants must be awarded competitively.

Grants may be awarded to:

- Acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;
- Construct and deploy broadband service-related infrastructure;
- Ensure access to broadband service by community anchor institutions;
- Facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;
- Construct and deploy broadband facilities that improve public safety broadband communications services; and

- Undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes of the act.

Each state must be awarded at least one grant. In determining whether to approve an application to deploy infrastructure in an area, priority must be given to projects that increase the affordability of, and subscribership to, service to the greatest population of users in the area. Projects given priority must also provide the greatest broadband speed possible to the greatest population of users in the area. The grant must enhance service for health care delivery, education, or children to the greatest population of users in the area. The grant must not result in unjust enrichment.

The Assistant Secretary must coordinate with the Federal Communications Commission to develop a national broadband plan to ensure that all people of the United States have access to broadband capability and must establish benchmarks for achieving that goal.

Mapping Program

The Assistant Secretary is required to develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each state. Within two years the map will be available to the public on the World Wide Web in a form that is interactive and searchable. The Assistant Secretary will develop rules for this provision. The act provides that up to \$350,000,000 may be expended nationally for the Broadband Data Improvement Act and for the purposes of developing and maintaining a broadband inventory map.

Florida Law

Section 364.011, F.S., provides that broadband services, regardless of the provider, platform, or protocol; VoIP; and wireless telecommunications, including commercial mobile radio service providers; are exempt from oversight by the Public Service Commission, except to the extent delineated in Chapter 364, F.S. or specifically authorized by federal law.

Chapter 610, F.S., provides for statewide cable and video franchises. Section 610.107, F.S., provides that no franchising authority, state agency, or political subdivision may impose any buildout, system construction, or service deployment requirements on a cable or video service provider that has been issued and holds a certificate of franchise authority from the Department of State. Under s. 610.108, F.S., video and cable service providers must meet the customer service requirement of federal rules².

III. Effect of Proposed Changes:

The bill provides legislative findings that broadband Internet service is critical to the economic development of the state and is beneficial for many public institutions. It further finds that barriers exist to statewide deployment of broadband Internet service, especially in rural,

² See 47 C.F.R. s. 76.309(c).

unserved, or underserved communities. It is the intent of the Legislature to promote the efficient and effective deployment of broadband Internet service throughout the state through a coordinated statewide effort.

The bill authorizes the Department of Management Services (department) to work with and to receive staffing support and other resources from Enterprise Florida, Inc., state agencies, local governments, private business, and community organizations (the collaborative) to conduct a needs assessment of broadband Internet service to develop geographical information system maps at the census block level that identify unserved and underserved areas, that track transmission speeds, and that create a baseline assessment of the percentage of households with broadband availability.

The department, together with the collaborative, is directed to create a strategic plan with goals and strategies for increasing use of broadband services. The department is further required to build and facilitate local technology planning teams or partnerships with members representing a cross-section of the community.

The department, together with the collaborative, is to encourage use of broadband Internet service, especially in the rural, unserved, and underserved areas. The department must set priorities for grants. Guidelines for awarding grants are consistent with the federal guidelines and include the goals of:

- Providing access to broadband education, awareness, training, access, equipment, and support to libraries, schools, colleges, universities, health care providers, and community support organizations.
- Encouraging investment in primarily unserved areas to give consumers a choice of more than one such provider.
- Working toward establishing affordable and sustainable broadband Internet service in unserved areas.
- Facilitating the development of applications, programs, and services.

The department may apply for and accept federal funds for purposes of this section, as well as gifts and donations from individuals, foundations, and private organizations. The department is authorized to enter into contracts and to adopt rules to carry out the purposes of the bill.

The bill provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The federal ARRA requires a 20 percent match for the federal funds, which may come from any non-federal source.

B. Private Sector Impact:

Any funds that are awarded in Florida for either the mapping or the grants programs are expected to have a positive short-term economic impact as grant money is received and spent and a positive long-term economic impact as the results of the policy are realized.

C. Government Sector Impact:

The department and other governmental entities may be required to expend resources, including personnel, to assist in the development of the broadband Internet services plan.

The governmental sector has the opportunity to win grants under the ARRA.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is linked to CS/SB 2126, which provides a public records exemption for any proprietary business information obtained from a communications company or broadband company by the department in the course of carrying out the purposes of this bill.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Communications, Energy and Public Utilities on April 14, 2009:

The committee substitute returns the provisions of s. 610.119, F.S. to those of current law, and makes no additional changes to that section. The committee substitute provides a statement of legislative intent.

The committee substitute also authorizes the Department of Management Services (department) to work with and to receive staffing support and other resources from Enterprise Florida, Inc., state agencies, local governments, private business, and community organizations to:

- Conduct a needs assessment of broadband Internet service to develop geographical information system maps at the census block level that identify geographic gaps in broadband services; available transmission speeds; and a baseline assessment of percentage of households with broadband availability.
- Create a strategic plan with goals and strategies for increasing use of broadband Internet service.
- Build and facilitate local technology planning teams or partnerships with members representing a cross-section of the community.
- Encourage use of broadband Internet service, especially in the rural, unserved, and underserved areas, and set priorities for grants.

The committee substitute authorizes the department to apply for and to accept federal funds for purposes of the section, as well as to accept gifts and donations from individuals, foundations, and private organizations. The department is authorized to enter into contracts and to adopt rules to carry out the purposes of the bill.

B. Amendments:

None.