

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: CS/SB 1242

INTRODUCER: Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; and Senators Hays and Benacquisto

SUBJECT: Broadband Internet Service

DATE: February 29, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Favorable
2.	Juliachs	Hrdlicka	CM	Favorable
3.	Martin	Meyer	BTA	Fav/CS
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input 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:

This CS/SB 1242 (CS) designates the Department of Economic Opportunity (DEO) to replace the Department of Management Services (DMS) as the agency responsible for implementing the state's broadband program, and designating DEO as the single state entity to receive and manage all federal State Broadband Initiative funds. The CS also:

- Requires DEO to establish a public-private partnership that will collaboratively perform the work of implementing the broadband program.
- Requires that DEO's strategic plan to increase use of broadband Internet service in Florida be developed with the use of consumer research into residential and business technology utilization data.
- Requires that broadband mapping be developed at the census block level of detail.
- Transfers the Broadband Initiative Program to DEO by a type two transfer as defined in s. 20.06, F.S., and provides that, if the federal government approves the transfer of the broadband grant to DEO, DMS must submit a budget amendment for approval by the Legislative Budget Commission to transfer the funds to implement this act.

The CS substantially amends s. 364.0135, F.S.

II. Present Situation:

In 2008, Congress passed the Broadband Data Improvement Act (BDIA)¹ to improve the quality of federal and state data concerning the availability and quality of broadband services for the purpose of promoting the deployment of affordable broadband services to all parts of the nation. In early 2009, Congress directed the Federal Communications Commission (FCC) to develop a National Broadband Plan to ensure every American has access to broadband capability. Congress also required that this plan include a detailed strategy for achieving affordability and maximizing the use of broadband to advance “consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.”² The plan developed by the FCC can be found at <http://www.broadband.gov/plan/>.

The American Recovery and Reinvestment Act of 2009 (ARRA)³ provided \$7.2 billion in funding for the purpose of developing and expanding broadband services to rural and underserved communities with a focus on schools, libraries, health care, educational institutions, non-profit community organizations, and the construction of broadband infrastructure. Two federal agencies are handling the distribution of broadband grants/awards through an application process.

The U.S. Department of Agriculture Rural Utilities Service (RUS) was authorized to make loans and grants totaling \$2.5 billion for broadband infrastructure projects in rural areas through its Broadband Initiatives Program (BIP).⁴ Likewise, the U.S. Department of Commerce National Telecommunications Information Administration (NTIA) was authorized to provide grants totaling \$4.7 billion to fund comprehensive broadband infrastructure projects, public computer centers, and sustainable broadband adoption projects through its Broadband Technology Opportunities Program (BTOP).⁵

In 2009, the Legislature enacted s. 364.0135, F.S., for the promotion of broadband. Currently, the statute authorizes the Florida Department of Management Services (DMS) to work collaboratively with Enterprise Florida, Inc. (EFI), state agencies, local governments, private businesses, and community organizations to:

- Monitor the development of broadband Internet service and develop data and maps that provide a baseline assessment of the availability and speed of broadband service throughout Florida;
- Create a strategic plan to increase use of broadband Internet service in Florida;
- Build and facilitate local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private

¹ Broadband Data Improvement Act, Pub. L. No. 110-385.

² Information available at: <http://www.broadband.gov/plan/executive-summary/> (last visited February 3, 2012).

³ The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.

⁴ Information available at: <http://www.broadbandusa.gov/BIPportal/index.htm> (last visited February 3, 2012).

⁵ Information available at: <http://www2.ntia.doc.gov/> (last visited February 3, 2012).

- businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture; and
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved areas of the state through grant programs.

DMS was also authorized to apply for and accept federal funds, gifts, and donations from individuals, foundations, and private organizations for these purposes.⁶

That same year NTIA launched the State Broadband Initiative (SBI) to implement the purposes of the ARRA and the Broadband Data Improvement Act. According to the NTIA’s website,⁷ 12 separate entities within Florida have been awarded a combined total of \$183.7 million for broadband infrastructure, sustainable adoption, and public computer center projects.⁸ A table listing statewide federal award disbursements is provided below:

Grantee	Total Award	Type
City of Tallahassee	\$1,212,020	Sustainable Adoption
Communication Service for the Deaf, Inc.	\$14,9888,657	Sustainable Adoption
Florida A&M University	\$1,477,722	Public Computer Centers
Florida Department of Management Services	\$8,877,028	Broadband Data & Development⁹
Florida Rural Broadband Alliance	\$23,693,665	Infrastructure
Level 3 EON, LLC	\$2,066,250	Infrastructure
North Florida Broadband Authority	\$30,142,676	Infrastructure
One Community	\$18,701,771	Sustainable Adoption
One Economy Corporation	\$28,519,482	Sustainable Adoption
School Board of Miami-Dade	\$3,473,498	Sustainable Adoption
Tampa Housing Authority	\$2,131,322	Sustainable Adoption
University Corporation for Advanced Internet Development	\$62,540,162	Infrastructure

As noted above, among those awards, DMS was awarded a total of \$8,877,028¹⁰ for the following purposes:

⁶ In 2011, the Legislature amended s. 364.0135, F.S., to modify the intent of the program to one that promotes a sustainable adoption of broadband internet service. Sustainable adoption was defined to mean the ability for communication service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy. As such, the statute was also amended to require that DMS monitor the adoption of broadband Internet service as opposed to simply conduct a needs assessment statewide. *See* ch. 2011-36, L.O.F.; *See also* Analysis for CS/CS/HB 1231 by House State Affairs Committee (April 14, 2011).

⁷ Information available at: <http://www2.ntia.doc.gov/SBDD> (last visited February 3, 2012).

⁸ Information available at: <http://www2.ntia.doc.gov/florida> (last visited February 3, 2012).

⁹ Note that this amount is derived from the SBI fund. To date, NTIA has awarded a total of \$293 million to 56 grantees, one each from the 50 states, 5 territories, and the District of Columbia, or their designees from this fund. All other awards reflected in this chart derive from either the BTOP or BIP funds, which are administered respectively by the U.S. Department of Agriculture’s Rural Utilities Services and U.S. Department of Commerce.

¹⁰ Information available at: <http://www2.ntia.doc.gov/grantee/florida-department-of-management-services> (last visited February 3, 2012). According to DMS, it also developed and applied for a broadband adoption grant under the BTOP on two

- Provide technical assistance to Florida anchor institutions for the E-rate program for increasing school and library telecommunications funding to procure services and technology from the private sector;
- Develop regional planning teams, in partnership with the Florida Regional Planning Councils, to assist in local and regional broadband planning;
- Provide further funding opportunity development and assistance to anchor institutions to secure additional funding to expand broadband usage throughout the state from the private sector;
- Provide for broadband data inventory, analysis and mapping; and
- Provide technology assessments to libraries for the purpose of increasing funding to purchase broadband from the private sector.

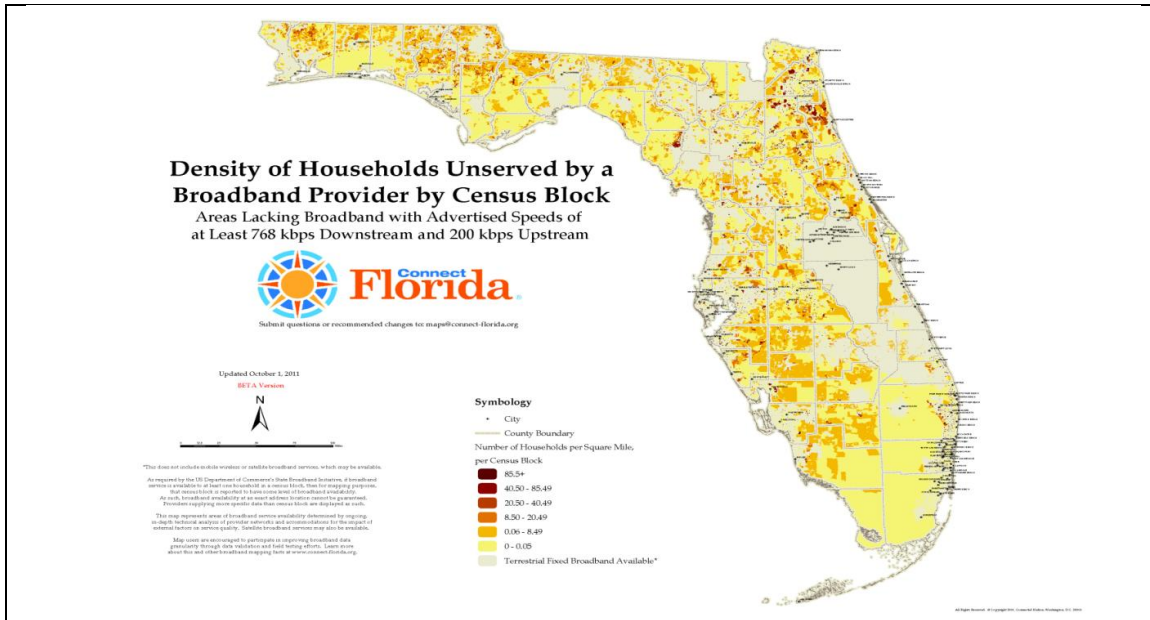
With some of the funds provided through ARRA, DMS partnered with a national organization called Connected Nation¹¹ to map landline and wireless broadband services using information from service providers and other sources. This mapping project is intended to better identify the location of Florida's unserved and underserved areas.¹²

Provided below is a map that highlights the density of households unserved by a broadband provider by census block. To assist with interpreting the data, the burgundy marks on the map represent the *greatest* density of households that are unserved by broadband while the light yellow markings reflect the *lowest* density of households that are unserved by a broadband provider. In other words, the light yellow markings reflect the greatest density of households that are served by a broadband provider.

occasions using a "community development" model proposed by Connected Nation, *infra note 11*, though both applications, along with applications from other states proposing similar programs, were denied.

¹¹ Connected Nation is a nonprofit corporation whose Board of Directors is represented by CTIA-The Wireless Association, the Telecommunications Industry Association, the American Farm Bureau Federation, The Children's Partnership, and Intel. Its work is directed by the board and a National Advisory Council comprised of a number of telecommunications companies and industry organizations, technology companies, and nonprofit organizations. The full list of members can be found at http://connectednation.org/who_we_are/national_advisors/ (last visited February 3, 2012)

¹² The efforts of this project can be found at <http://www.connect-florida.org/> (last visited February 3, 2012).



Department of Economic Opportunity

In 2011, the Legislature created DEO “to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.”¹³ As such, DEO is charged with the following duties:

- Facilitating the direct involvement of the Governor and the Lieutenant Governor in economic development and workforce development projects designed to create, expand, and retain businesses in this state; recruit business from around the world; and facilitate other job-creating efforts;
- Recruiting new businesses to this state and promoting the expansion of existing businesses by expediting permitting and location decisions, worker placement and training, as well as incentive awards;
- Promoting viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities;
- Ensuring that the state’s goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies; and
- Managing the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; rural community development; commercialization of products, services, or

¹³ See ch. 2011-142, L.O.F.

ideas developed in public universities or other public institutions; and the development and promotion of professional and amateur sporting events.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 364.0135, F.S., to designate DEO as the agency responsible for receiving and managing federal funds from the U.S. Department of Commerce for state broadband initiatives.

This CS also requires DEO to establish a public-private partnership that will work collaboratively with, and receive staffing support and other resources from EFI, state agencies, local governments, private businesses, not-for-profit organizations, and community organizations. Further, DEO is charged with the task of creating a strategic plan, developed through the use of consumer research and residential and business technology utilization data, for the purpose of increasing the use of broadband Internet service in the state.

Finally, this CS specifies broadband mapping be conducted at the census block level of detail. Current law provides that these areas be identified at the census tract level. The effect of this change will require mapping at a higher level of detail.

Section 2 provides that all powers, duties, functions, records, offices, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balance of appropriations, allocations, and other funds relating to the Broadband Initiative Program in DMS are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to DEO.

Section 3 requires DMS, in consultation with DEO, to submit to the United States Department of Commerce a request to transfer the federal broadband grant from DMS to DEO. Upon receipt from the United States Department of Commerce of its approval or denial of the request for a transfer of the broadband grant, DMS shall, in writing, immediately notify the Governor, the President of the Senate, and the Speaker of the House of Representatives of that decision. If the request for a transfer of the federal broadband grant is approved, DMS shall submit a budget amendment for approval by the Legislative Budget Commission to transfer the funds necessary to implement this act. This section shall take effect upon this act becoming a law.

Section 4 provides that this CS will take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁴ Section, 20.60(4), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:¹⁵

According to DMS, there could be losses in the amount of \$630,889 to contractors who provide broadband inventory and mapping services if the transfer of grant awards is not approved.

C. Government Sector Impact:¹⁶

According to DMS, local governments could incur a potential loss in the amount of \$502,000 through broadband planning with regional planning councils, loss of increased E-Rate funds for schools and libraries, and loss of federal foundation funds without grants if the transfer of grant awards is not approved.

Additionally, transfer of these awards to a new entity would require approval by the SBI to continue the grants.¹⁷ As per DMS, SBI has approved two transfers, and the process required significant work and lead time for the existing grantee, new grantee, and the SBI office. DMS also indicates that, to achieve approval of such a transfer, the grant award must be transferred in its entirety to the new entity, and the new entity must continue the same work as set forth in the original award. According to DMS, this means that the programs and budgets must remain the same and the staff must remain whole or substantially intact.

However, Connected Nation provided information that in two states where it has been involved in such a transfer, Alaska and Kansas, the transfer was accomplished by a simple, one-page letter from the governor to The Assistant Secretary for Communications and Information, National Telecommunications and Information Administration, United States Department of Commerce.¹⁸

VI. Technical Deficiencies:

None.

¹⁵ See Analysis for SB 1242 by Department of Management Services (January 6, 2012) (on file with the Senate Committee on Commerce and Tourism).

¹⁶ *Id.*

¹⁷ See U.S. Department of Commerce Grants Manual, Chapter 16, W., *Transfer of Award*, available at http://www.osec.doc.gov/oam/grants_management/policy/doc_grants_manual/default.htm (last visited February 3, 2012).

¹⁸ Copies of letters are on file with Senate Committee on Commerce and Tourism (February 3, 2012).

VII. Related Issues:

None.

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations on February 28, 2012:

This CS transfers the Broadband Initiative Program to DEO by a type two transfer as defined in s. 20.06, F.S., and provides that, if the federal government approves the transfer of the broadband grant to DEO, DMS must submit a budget amendment for approval by the Legislative Budget Commission to transfer the funds to implement this act.

- B. **Amendments:**

None.