

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 Communications, Energy, and Public Utilities Committee

BILL: SB 1242

INTRODUCER: Senator Hays

SUBJECT: Broadband Internet Service

DATE: January 17, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Favorable
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill 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 bill 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.

The bill substantially amends section 364.0135 of the Florida Statutes.

II. Present Situation:

In 2008, Congress passed the Broadband Data Improvement Act¹ to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote 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 use of broadband to advance “consumer welfare, civic participation, public safety and homeland

¹ Broadband Data Improvement Act, Pub. L. No. 110-385, S. 1492, 122 Stat. 4096.

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) provided \$7.2 billion in funding for the purpose of developing and expanding broadband services to rural and underserved communities, focusing 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's 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). The U.S. Department of Commerce's 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).

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

- Assess the needs for 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 local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture.
- 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 and gifts and donations from individuals, foundations, and private organizations for these purposes.

In 2009, the 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 SBI website,³ twelve separate entities within Florida have been awarded a combined total of \$183.7 million for broadband infrastructure, sustainable adoption, and public computer center projects. Among those awards, DMS was awarded a total of \$8,877,028⁴ for the following purposes:

² See <http://www.broadband.gov/plan/executive-summary/>.

³ <http://www2.ntia.doc.gov/SBDD>

⁴ <http://www2.ntia.doc.gov/grantee/florida-department-of-management-services>. According to DMS, it also developed and applied for a broadband adoption grant under the BTOP on two occasions using a “community development” model proposed by Connected Nation (see footnote below), though both applications, along with applications from other states proposing similar programs, were denied.

- 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.
- Provide technology assessments to libraries to increase funding to purchase broadband from the private sector.

With some of the funds provided through the ARRA, DMS partnered with a national organization called Connected Nation⁵ 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. The efforts of this project can be found at <http://www.connect-florida.org/>.⁶

In 2011, the Legislature created the Department of Economic Opportunity (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."⁷ To accomplish this purpose, DEO is provided the following duties:

- Facilitate 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, to recruit business from around the world, and to facilitate other job-creating efforts.
- Recruit new businesses to this state and promote the expansion of existing businesses by expediting permitting and location decisions, worker placement and training, and incentive awards.
- Promote viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities.
- Ensure 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.
- Manage 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

⁵ 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/.

⁶ According to DMS, after a first-year performance evaluation of this initial contractor, DMS developed a second competitive procurement "to improve performance, reduce cost and increase the usefulness of the project results to Florida stakeholders."⁷

⁷ s. 1, ch. 2011-142, Laws of Florida.

development; rural community development; commercialization of products, services, or ideas developed in public universities or other public institutions; and the development and promotion of professional and amateur sporting events.⁸

III. Effect of Proposed Changes:

The bill amends s. 364.0135, F.S., to designate the Department of Economic Opportunity (DEO) as the agency to receive and manage all federal funds from the United States Department of Commerce for state broadband initiatives. It also requires DEO to establish a public-private partnership that will work to accomplish the results set forth in the statute and discussed above. It requires that the strategic plan be developed through the use of consumer research into residential and business technology utilization data. Finally, it requires that the broadband mapping develop information at the census block level of detail. Current law provides that these areas be identified at the census tract level. The bill will require mapping at a higher level of detail.

The bill takes effect July 1, 2012.

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:

None.

B. Private Sector Impact:

There could be losses to contractors if the transfer of grant awards is not approved, as discussed below.

C. Government Sector Impact:

Currently, DMS is the entity designated by the State of Florida to accept funds under the federal State Broadband Initiative (SBI) program within the U.S. Department of

⁸ s. 20.60(4), F.S.

Commerce. To maintain the grants awarded to DMS to date, a transfer of these awards to a new entity would require approval by the SBI.⁹ According to DMS, the 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. The bill does not provide for the transfer of positions and funds from DMS to DEO. According to DMS, if the SBI does not approve the transfer of these grant awards from DMS to DEO, local governments could incur a loss of \$502,000 through broadband planning with regional planning councils and a potential loss of new funds for expanding broadband technology to schools and libraries due to the loss of technical assistance in seeking these funds. DMS also indicates that if the SBI does not approve the transfer, funding of \$630,889 for broadband inventory and mapping services provided under contract could be lost.

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.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁹ See U.S. Department of Commerce Grants Manual, Chapter 16, W., *Transfer of Award*.